

STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

2011 GENERAL ASSEMBLY

AT ITS

REGULAR SESSION 2012

BEGINNING ON

**WEDNESDAY, THE FOURTH DAY OF
JANUARY, A.D. 2012**

HELD IN THE CITY OF RALEIGH

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

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TABLE OF CONTENTS

Presiding Officers of the 2011 General Assembly.....	v
Executive Branch	v
Officers and Members of the Senate	vi
Officers and Members of the House	vii
Legislative Services Commission	ix
Legislative Services Staff Directors.....	ix
Constitution of North Carolina	xi
Session Laws of the 2012 Regular Session.....	1
Vetoes of Governor Beverly E. Perdue.....	989
Resolutions of the 2012 Regular Session.....	995
Executive Orders	1006
Certification.....	1039
Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets	1041
Numerical Index.....	1154
2012 Regular Session Index	
Session Laws	1157
Resolutions	1294

STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE 2011 GENERAL ASSEMBLY

WALTER H. DALTON (D).....President of the Senate..... Rutherford
THOM TILLIS (R)Speaker of the House Mecklenburg

EXECUTIVE BRANCH

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

BEVERLY E. PERDUE (D).....Governor Craven
WALTER H. DALTON (D).....Lieutenant Governor Rutherford
ELAINE F. MARSHALL (D).....Secretary of State Harnett
BETH A. WOOD (D).Auditor Wake
JANET COWELL (D)Treasurer Wake
JUNE S. ATKINSON (D)Superintendent of Public Instruction Wake
ROY A. COOPER, III (D)Attorney General.....Nash
STEVEN W. TROXLER (R).....Commissioner of Agriculture Guilford
CHERIE K. BERRY (R).....Commissioner of Labor Catawba
WAYNE GOODWIN (D)Commissioner of Insurance Richmond

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 Perdue are carried in this volume.

SENATE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
WALTER H. DALTON	President	Rutherfordton, Rutherford County
PHILIP E. BERGER	President Pro Tempore	Eden, Rockingham County
HARRIS BLAKE	Deputy President Pro Tempore	Pinehurst, Moore County
SARAH CLAPP	Principal Clerk	Raleigh, Wake County
LEE SETTLE	Reading Clerk	Pinehurst, Moore County
PHILIP KING	Sergeant-at-Arms	Southport, Brunswick County

SENATORS

District	Name	Party	County	Address
1	STAN WHITE	D	Dare	Nags Head
2	JEAN R. PRESTON	R	Carteret	Emerald Isle
3	S. CLARK JENKINS	D	Edgecombe	Tarboro
4	EDWARD W. JONES	D	Halifax	Enfield
5	LOUIS M. PATE, JR.	R	Wayne	Mount Olive
6	HARRY BROWN	R	Onslow	Jacksonville
7	DOUG BERGER	D	Franklin	Youngsville
8	WILLIAM P. RABON	R	Brunswick	Southport
9	THOMAS C. GOOLSBY	R	New Hanover	Wilmington
10	BRENT JACKSON	R	Sampson	Autryville
11	E.S. NEWTON	R	Wilson	Wilson
12	DAVID ROUZER	R	Johnston	Benson
13	MICHAEL P. WALTERS	D	Robeson	Fairmont
14	DANIEL T. BLUE	D	Wake	Raleigh
15	NEAL HUNT	R	Wake	Raleigh
16	JOSHUA H. STEIN	D	Wake	Raleigh
17	* RICHARD Y. STEVENS	R	Wake	Cary
	+ TAMARA BARRINGER	R	Wake	Cary
18	BOB ATWATER	D	Chatham	Chapel Hill
19	WESLEY A. MEREDITH	R	Cumberland	Fayetteville
20	FLOYD B. MCKISSICK, JR.	D	Durham	Durham
21	ERIC L. MANSFIELD	D	Cumberland	Fayetteville
22	HARRIS BLAKE	R	Moore	Pinehurst
23	ELEANOR KINNAIRD	D	Orange	Chapel Hill
24	RICHARD W. GUNN	R	Alamance	Burlington
25	WILLIAM R. PURCELL	D	Scotland	Laurinburg
26	PHILIP E. BERGER	R	Rockingham	Eden
27	DONALD R. VAUGHAN	D	Guilford	Greensboro
28	GLADYS A. ROBINSON	D	Guilford	Pleasant Garden
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	TOMMY TUCKER	R	Union	Waxhaw
36	FLETCHER L. HARTSELL, JR.	R	Cabarrus	Concord
37	DANIEL G. CLODFELTER	D	Mecklenburg	Charlotte
38	CHARLIE S. DANNELLY	D	Mecklenburg	Charlotte
39	ROBERT A. RUCHO	R	Mecklenburg	Matthews
40	MALCOLM GRAHAM	D	Mecklenburg	Charlotte
41	CHRISTOPHER S. CARNEY	R	Gaston	Mooreville
42	AUSTIN M. ALLRAN	R	Catawba	Hickory
43	KATHRYN HARRINGTON	R	Gaston	Gastonia
44	WARREN T. DANIEL	R	Burke	Morganton
45	DANIEL F. SOUCEK	R	Watauga	Boone
46	** DEBBIE A. CLARY	R	Cleveland	Cherryville
	++ WES WESTMORELAND	R	Cleveland	Shelby
47	RALPH E. HISE	R	Mitchell	Spruce Pine
48	TOM APODACA	R	Henderson	Hendersonville
49	MARTIN L. NESBITT	D	Buncombe	Asheville
50	JAMES W. DAVIS	R	Macon	Franklin

* Resigned September 7, 2012

+ Appointed October 4, 2012

** Resigned January 10, 2012

++ Appointed January 23, 2012

HOUSE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
THOM TILLIS	Speaker	Cornelius, Mecklenburg County
DALE R. FOLWELL	Speaker Pro Tempore	Winston-Salem, Forsyth County
DENISE G. WEEKS	Principal Clerk	Raleigh, Wake County
CLYDE COOK, JR.	Sergeant-at-Arms	Garner, Wake County

REPRESENTATIVES

District	Name	Party	County	Address
1	BILL OWENS	D.....	Pasquotank.....	Elizabeth City
2	TIMOTHY L. SPEAR	D.....	Washington.....	Creswell
3	NORMAN W. SANDERSON	R.....	Pamlico.....	Arapahoe
4	JIMMY DIXON	R.....	Duplin.....	Mount Olive
5	ANNIE W. MOBLEY	D.....	Hertford.....	Ahoskie
6	BILL COOK.....	R.....	Beaufort.....	Chocowinity
7	ANGELA R. BRYANT	D.....	Nash.....	Rocky Mount
8	EDITH D. WARREN	D.....	Pitt	Farmville
9	MARIAN N. MCLAWHORN	D.....	Pitt	Grifton
10	STEPHEN A. LAROQUE	R.....	Lenoir.....	Kinston
+	KAREN KOZEL	R.....	Lenoir.....	La Grange
11	EFTON M. SAGER.....	R.....	Wayne.....	Goldsboro
12	WILLIAM L. WAINWRIGHT	D.....	Craven	Havelock
++	BARBARA LEE	D.....	Craven	New Bern
13	PAT MCELRAFT	R.....	Carteret	Emerald Isle
14	GEORGE G. CLEVELAND.....	R.....	Onslow.....	Jacksonville
15	PHIL R. SHEPARD.....	R.....	Onslow.....	Jacksonville
16	CAROLYN H. JUSTICE	R.....	Pender	Hampstead
17	FRANK ILER	R.....	Brunswick.....	Oak Island
18	SUSI H. HAMILTON.....	D.....	New Hanover.....	Wilmington
19	DANIEL F. MCCOMAS.....	R.....	New Hanover.....	Wilmington
+++	TED DAVIS, JR.	R.....	New Hanover.....	Wilmington
20	DEWEY L. HILL.....	D.....	Columbus.....	Lake Waccamaw
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	JEFF COLLINS.....	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	ROSA U. GILL.....	D.....	Wake.....	Raleigh
34	GRIER MARTIN	D.....	Wake.....	Raleigh
35	JENNIFER WEISS	D.....	Wake.....	Cary
36	NELSON DOLLAR	R.....	Wake.....	Cary
37	PAUL STAM.....	R.....	Wake.....	Apex
38	DEBORAH K. ROSS.....	D.....	Wake.....	Raleigh
39	DARREN G. JACKSON.....	D.....	Wake.....	Raleigh
40	MARILYN AVILA.....	R.....	Wake.....	Raleigh
41	TOM MURRY.....	R.....	Wake.....	Morrisville
42	MARVIN W. LUCAS.....	D.....	Cumberland	Spring Lake
43	ELMER FLOYD	D.....	Cumberland	Fayetteville
44	DIANE PARFITT.....	D.....	Cumberland	Fayetteville
45	RICK GLAZIER	D.....	Cumberland	Fayetteville
46	G.L. PRIDGEN	R.....	Robeson	Lumberton
47	CHARLES GRAHAM	D.....	Robeson	Lumberton
48	GARLAND E. PIERCE.....	D.....	Scotland	Wagram
49	GLEN BRADLEY	R.....	Franklin	Youngsville
50	BILL FAISON	D.....	Orange	Cedar Grove
51	MIKE C. STONE.....	R.....	Lee	Sanford
52	JAMES L. BOLES, JR.	R.....	Moore	Southern Pines
53	DAVID R. LEWIS	R.....	Harnett	Dunn
54	JOE HACKNEY.....	D.....	Orange	Chapel Hill
55	W.A. (WINKIE) WILKINS	D.....	Person	Roxboro
56	VERLA INSKO.....	D.....	Orange	Chapel Hill
57	PRICEY HARRISON	D.....	Guilford	Greensboro
58	ALMA ADAMS.....	D.....	Guilford	Greensboro

59	MAGGIE JEFFUS	D.....	Guilford	Greensboro
60	MARCUS BRANDON	D.....	Guilford	High Point
61	JOHN FAIRCLOTH.....	R.....	Guilford	High Point
62	JOHN M. BLUST	R.....	Guilford	Greensboro
63	ALICE L. BORDSEN	D.....	Alamance.....	Mebane
64	DAN W. INGLE.....	R.....	Alamance.....	Burlington
65	BERT JONES	R.....	Rockingham.....	Reidsville
66	KEN GOODMAN	D.....	Richmond	Rockingham
67	JUSTIN P. BURR.....	R.....	Stanly.....	Albemarle
68	D. CRAIG HORN	R.....	Union	Weddington
69	FRANK MCGUIRT	D.....	Union	Wingate
70	PAT B. HURLEY	R.....	Randolph	Asheboro
71	LARRY WOMBLE	D.....	Forsyth.....	Winston-Salem
72	EARLINE W. PARMON	D.....	Forsyth.....	Winston-Salem
73	**** LARRY R. BROWN.....	R.....	Forsyth.....	Kernersville
	++++ JOYCE KRAWIEC	R.....	Forsyth.....	Kernersville
74	DALE R. FOLWELL.....	R.....	Forsyth.....	Winston-Salem
75	WM. C. "BILL" MCGEE.....	R.....	Forsyth.....	Clemmons
76	FRED F. STEEN, II	R.....	Rowan.....	Landis
77	HARRY WARREN	R.....	Rowan.....	Salisbury
78	***** HAROLD J. BRUBAKER.....	R.....	Randolph	Asheboro
	+++++ ALLEN RAY MCNEILL.....	R.....	Randolph	Asheboro
79	JULIA C. HOWARD	R.....	Davie	Mocksville
80	JERRY C. DOCKHAM	R.....	Davidson.....	Denton
81	RAYNE BROWN.....	R.....	Davidson.....	Lexington
82	LARRY G. PITTMAN.....	R.....	Cabarrus.....	Concord
83	LINDA P. JOHNSON	R.....	Cabarrus.....	Kannapolis
84	PHILLIP FRYE.....	R.....	Mitchell	Spruce Pine
85	MITCH GILLESPIE	R.....	McDowell.....	Marion
86	HUGH BLACKWELL.....	R.....	Burke	Valdese
87	EDGAR V. STARNES	R.....	Caldwell.....	Hickory
88	MARK W. HOLLO.....	R.....	Alexander	Taylorsville
89	MITCHELL S. SETZER.....	R.....	Catawba.....	Catawba
90	SARAH STEVENS	R.....	Surry	Mt. Airy
91	BRYAN R. HOLLOWAY.....	R.....	Stokes	King
92	DARRELL G. MCCORMICK.....	R.....	Yadkin	Yadkinville
93	JONATHAN C. JORDAN	R.....	Ashe.....	Jefferson
94	SHIRLEY B. RANDLEMAN	R.....	Wilkes.....	Wilkesboro
95	GREY MILLS	R.....	Iredell.....	Mooreville
96	MARK K. HILTON	R.....	Catawba.....	Conover
97	JASON SAINÉ.....	R.....	Lincoln.....	Denver
98	THOM TILLIS.....	R.....	Mecklenburg.....	Cornelius
99	RODNEY W. MOORE	D.....	Mecklenburg.....	Charlotte
100	TRICIA ANN COTHAM.....	D.....	Mecklenburg.....	Matthews
101	BEVERLY M. EARLE	D.....	Mecklenburg.....	Charlotte
102	BECKY CARNEY	D.....	Mecklenburg.....	Charlotte
103	WILLIAM BRAWLEY	R.....	Mecklenburg.....	Matthews
104	RUTH SAMUELSON.....	R.....	Mecklenburg.....	Charlotte
105	RIC KILLIAN	R.....	Mecklenburg.....	Charlotte
106	MARTHA B. ALEXANDER.....	D.....	Mecklenburg.....	Charlotte
107	KELLY M. ALEXANDER, JR.	D.....	Mecklenburg.....	Charlotte
108	JOHN A. TORBETT.....	R.....	Gaston.....	Stanley
109	WILLIAM A. CURRENT, SR.	R.....	Gaston.....	Gastonia
110	KELLY E. HASTINGS	R.....	Gaston.....	Cherryville
111	TIM MOORE	R.....	Cleveland.....	Kings Mountain
112	MIKE HAGER	R.....	Rutherford	Rutherfordton
113	***** W. DAVID GUICE	R.....	Transylvania	Brevard
	+++++ TRUDI WALEND.....	R.....	Transylvania	Brevard
114	SUSAN C. FISHER.....	D.....	Buncombe.....	Asheville
115	PATSY KEEVER	D.....	Buncombe.....	Asheville
116	TIM D. MOFFITT	R.....	Buncombe.....	Asheville
117	CHUCK MCGRADY	R.....	Henderson.....	Hendersonville
118	RAY RAPP	D.....	Madison.....	Mars Hill
119	R. PHILLIP HAIRE.....	D.....	Jackson	Sylva
120	ROGER WEST.....	R.....	Cherokee.....	Marble

* Resigned August 1, 2012
** Deceased July 17, 2012
*** Resigned September 2, 2012
**** Deceased August 16, 2012
***** Resigned July 12, 2012
***** Resigned January 1, 2012

+ Appointed August 29, 2012
++ Appointed August 6, 2012
+++ Appointed September 20, 2012
++++ Appointed October 10, 2012
+++++ Appointed August 13, 2012
+++++ Appointed January 4, 2012

LEGISLATIVE SERVICES COMMISSION

SENATE PRESIDENT PRO TEMPORE PHILIP E. BERGER, *COCHAIR*

HOUSE SPEAKER THOM TILLIS, *COCHAIR*

SEN. THOMAS M. APODACA
SEN. HARRY BROWN
SEN. MARTIN L. NESBITT, JR.
SEN. ROBERT ANTHONY RUCHO

REP. HAROLD J. BRUBAKER
REP. JUSTIN P. BURR
REP. NELSON DOLLAR
REP. TIMOTHY KEITH MOORE

LEGISLATIVE SERVICES STAFF DIRECTORS

GEORGE R. HALL, JR..... Legislative Services Officer
GERRY F. COHEN Director of the Bill Drafting Division
MARK TROGDON..... Director of the Fiscal Research Division
DENNIS W. MCCARTY Director of the Information Systems Division
JOHN W. TURCOTTE..... Director of the Program Evaluation Division
O. WALKER REAGAN Director of the Research Division

CONSTITUTION OF NORTH CAROLINA

PREAMBLE

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

ARTICLE I DECLARATION OF RIGHTS

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

Section 1. The equality and rights of persons.

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

Sec. 2. Sovereignty of the people.

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

Sec. 3. Internal government of the State.

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

Sec. 4. Secession prohibited.

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

Sec. 5. Allegiance to the United States.

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

Sec. 6. Separation of powers.

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

Sec. 7. Suspending laws.

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

Sec. 8. Representation and taxation.

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

Sec. 9. Frequent elections.

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

Sec. 10. Free elections.

All elections shall be free.

Sec. 11. Property qualifications.

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

Sec. 12. Right of assembly and petition.

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

Sec. 13. Religious liberty.

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

Sec. 14. Freedom of speech and press.

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

Sec. 15. Education.

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

Sec. 16. Ex post facto laws.

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

Sec. 17. Slavery and involuntary servitude.

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

Sec. 18. Court shall be open.

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

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

No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of

CONSTITUTION OF NORTH CAROLINA

the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

Sec. 20. General warrants.

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

Sec. 21. Inquiry into restraints on liberty.

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

Sec. 22. Modes of prosecution.

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

Sec. 23. Rights of accused.

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

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

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

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

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

Sec. 26. Jury service.

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

Sec. 27. Bail, fines, and punishments.

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

Sec. 28. Imprisonment for debt.

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

Sec. 29. Treason against the State.

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

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

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

Sec. 31. Quartering of soldiers.

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

Sec. 32. Exclusive emoluments.

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

Sec. 33. Hereditary emoluments and honors.

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

Sec. 34. Perpetuities and monopolies.

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

Sec. 35. Recurrence to fundamental principles.

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

Sec. 36. Other rights of the people.

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

Sec. 37. Rights of victims of crime.

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

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

CONSTITUTION OF NORTH CAROLINA

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

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

ARTICLE II LEGISLATIVE

Section 1. Legislative power.

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

Sec. 2. Number of Senators.

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

Sec. 3. Senate districts; apportionment of Senators.

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

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

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

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

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

Sec. 4. Number of Representatives.

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

Sec. 5. Representative districts; apportionment of Representatives.

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

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

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

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

CONSTITUTION OF NORTH CAROLINA

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

Sec. 6. Qualifications for Senator.

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

Sec. 7. Qualifications for Representative.

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

Sec. 8. Elections.

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

Sec. 9. Term of office.

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

Sec. 10. Vacancies.

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

Sec. 11. Sessions.

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

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

Sec. 12. Oath of members.

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

Sec. 13. President of the Senate.

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

Sec. 14. Other officers of the Senate.

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

CONSTITUTION OF NORTH CAROLINA

the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

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

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

Sec. 15. Officers of the House of Representatives.

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

Sec. 16. Compensation and allowances.

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

Sec. 17. Journals.

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

Sec. 18. Protests.

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

Sec. 19. Record votes.

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

Sec. 20. Powers of the General Assembly.

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

Sec. 21. Style of the acts.

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

Sec. 22. Action on bills.

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

CONSTITUTION OF NORTH CAROLINA

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

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

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

(5) Other exceptions. Every bill:

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

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

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

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

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

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

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

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

CONSTITUTION OF NORTH CAROLINA

such adjournment, signed by a majority of the members of each house that a reconvened session to reconsider vetoed legislation is unnecessary, the Governor shall not reconvene the session for that purpose and any legislation vetoed in accordance with this section after adjournment shall not become law.

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

Sec. 23. Revenue bills.

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

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

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

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

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

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

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

**ARTICLE III
EXECUTIVE**

Section 1. Executive power.

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

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

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

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

Sec. 3. Succession to office of Governor.

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

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

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

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

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

Sec. 4. Oath of office for Governor.

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

Sec. 5. Duties of Governor.

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

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

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

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

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

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

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

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

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

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

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

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

CONSTITUTION OF NORTH CAROLINA

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

Sec. 6. Duties of the Lieutenant Governor.

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

Sec. 7. Other elective officers.

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

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

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

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

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

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

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

Sec. 8. Council of State.

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

CONSTITUTION OF NORTH CAROLINA

Sec. 9. Compensation and allowances.

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

Sec. 10. Seal of State.

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

Sec. 11. Administrative departments.

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

ARTICLE IV JUDICIAL

Section 1. Judicial power.

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

Sec. 2. General Court of Justice.

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

Sec. 3. Judicial powers of administrative agencies.

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

Sec. 4. Court for the Trial of Impeachments.

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

Sec. 5. Appellate division.

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

Sec. 6. Supreme Court.

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

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

Sec. 7. Court of Appeals.

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

Sec. 8. Retirement of Justices and Judges.

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

Sec. 9. Superior Courts.

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

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

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

Sec. 10. District Courts.

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

filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office, unless otherwise provided by the General Assembly.

Sec. 11. Assignment of Judges.

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

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

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

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

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

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

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

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

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

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

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

Sec. 14. Waiver of jury trial.

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

Sec. 15. Administration.

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

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

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

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

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

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

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

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

Sec. 18. District Attorney and Prosecutorial Districts.

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

CONSTITUTION OF NORTH CAROLINA

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

Sec. 19. Vacancies.

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

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

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

Sec. 21. Fees, salaries, and emoluments.

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

Sec. 22. Qualification of Justices and Judges.

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

ARTICLE V FINANCE

Section 1. No capitation tax to be levied.

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

Sec. 2. State and local taxation.

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

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

CONSTITUTION OF NORTH CAROLINA

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

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

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

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

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

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

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

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

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

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

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

CONSTITUTION OF NORTH CAROLINA

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

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

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

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

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

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

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

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

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

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

Sec. 5. Acts levying taxes to state objects.

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

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

(1) Sinking funds. The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for

which the sinking fund has been created, except that these funds may be invested as authorized by law.

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

Sec. 7. Drawing public money.

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

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

Sec. 8. Health care facilities.

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

Sec. 9. Capital projects for industry.

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

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

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

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

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

Sec. 11. Capital projects for agriculture.

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

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

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

Sec. 12. Higher education facilities.

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

Sec. 13. Seaport and airport facilities.

(1) Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to grant to the State, counties, municipalities, and other State and local

CONSTITUTION OF NORTH CAROLINA

governmental entities all powers useful in connection with the development of new and existing seaports and airports, and to authorize such public bodies:

- (a) to acquire, construct, own, own jointly with public and private parties, lease as lessee, mortgage, sell, lease as lessor, or otherwise dispose of lands and facilities and improvements, including undivided interest therein;
- (b) to finance and refinance for public and private parties seaport and airport facilities and improvements which relate to, develop or further waterborne or airborne commerce and cargo and passenger traffic, including commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation and environmental facilities and improvements; and
- (c) to secure any such financing or refinancing by all or any portion of their revenues, income or assets or other available monies associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, and by foreclosable liens on all or any part of their properties associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, but in no event to create a debt secured by a pledge of the faith and credit of the State or any other public body in the State.

Sec. 14. Project development financing.

Notwithstanding Section 4 of this Article, the General Assembly may enact general laws authorizing any county, city, or town to define territorial areas in the county, city, or town and borrow money to be used to finance public improvements associated with private development projects within the territorial areas, as provided in this section. The General Assembly shall set forth by statute the method for determining the size of the territorial area and the issuing unit. This method is conclusive. When a territorial area is defined pursuant to this section, the county shall determine the current assessed value of taxable real and personal property in the territorial area. Thereafter, property in the territorial area continues to be subject to taxation to the same extent and in like manner as property not in the territorial area, but the net proceeds of taxes levied on the excess, if any, of the assessed value of taxable real and personal property in the territorial area at the time the taxes are levied over the assessed value of taxable real and personal property in the territorial area at the time the territorial area was defined may be set aside. The instruments of indebtedness authorized by this section shall be secured by these set-aside proceeds. The General Assembly may authorize a county, city, or town issuing these instruments of indebtedness to pledge, as additional security, revenues available to the issuing unit from sources other than the issuing unit's exercise of its taxing power. As long as no revenues are pledged other than the set-aside proceeds authorized by this section and the revenues authorized in the preceding sentence, these instruments of indebtedness may be issued without approval by referendum. The county, city, or town may not pledge as security for these instruments of indebtedness any property tax revenues other than the set-aside proceeds authorized in this section, or in any other manner pledge its full faith and credit as security for these instruments of indebtedness unless a vote of the people is held as required by and in compliance with the requirements of Section 4 of this Article.

Notwithstanding the provisions of Section 2 of this Article, the General Assembly may enact general laws authorizing a county, city, or town that has defined a territorial area pursuant to this section to assess property within the territorial area at a minimum value if agreed to by the owner of the property, which agreed minimum value shall be binding on the current owner and any future owners as long as the defined territorial area is in effect.

**ARTICLE VI
SUFFRAGE AND ELIGIBILITY TO OFFICE**

Section 1. Who may vote.

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

Sec. 2. Qualifications of voter.

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

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

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

Sec. 3. Registration.

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

Sec. 4. Qualification for registration.

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

Sec. 5. Elections by people and General Assembly.

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

Sec. 6. Eligibility to elective office.

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

Sec. 7. Oath.

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

"I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not

CONSTITUTION OF NORTH CAROLINA

inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me God."

Sec. 8. Disqualifications for office.

The following persons shall be disqualified for office:

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

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

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

Sec. 9. Dual office holding.

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

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

Sec. 10. Continuation in office.

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

ARTICLE VII LOCAL GOVERNMENT

Section 1. General Assembly to provide for local government.

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

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within

CONSTITUTION OF NORTH CAROLINA

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

Sec. 2. Sheriffs.

In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law. No person is eligible to serve as Sheriff if that person has been convicted of a felony against this State, the United States, or another state, whether or not that person has been restored to the rights of citizenship in the manner prescribed by law. Convicted of a felony includes the entry of a plea of guilty; a verdict or finding of guilt by a jury, judge, magistrate, or other adjudicating body, tribunal, or official, either civilian or military; or a plea of no contest, nolo contendere, or the equivalent.

Sec. 3. Merged or consolidated counties.

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

ARTICLE VIII CORPORATIONS

Section 1. Corporate charters.

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

Sec. 2. Corporations defined.

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

ARTICLE IX EDUCATION

Section 1. Education encouraged.

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

Sec. 2. Uniform system of schools.

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

CONSTITUTION OF NORTH CAROLINA

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

Sec. 3. School attendance.

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

Sec. 4. State Board of Education.

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

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

Sec. 5. Powers and duties of Board.

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

Sec. 6. State school fund.

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

Sec. 7. County school fund; State fund for certain moneys.

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

(b) The General Assembly may place in a State fund the clear proceeds of all civil penalties, forfeitures, and fines which are collected by State agencies and which belong to the public schools pursuant to subsection (a) of this section. Moneys in such State fund shall be faithfully appropriated by the General Assembly, on a per pupil basis, to the counties, to be used exclusively for maintaining free public schools.

Sec. 8. Higher education.

The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General

CONSTITUTION OF NORTH CAROLINA

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

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

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

Sec. 10. Escheats.

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

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

ARTICLE X HOMESTEADS AND EXEMPTIONS

Section 1. Personal property exemptions.

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

Sec. 2. Homestead exemptions.

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

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

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

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

Sec. 3. Mechanics' and laborers' liens.

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

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

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

Sec. 5. Insurance.

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

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

Section 1. Punishments.

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

Sec. 2. Death punishment.

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

Sec. 3. Charitable and correctional institutions and agencies.

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

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

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

**ARTICLE XII
MILITARY FORCES**

Section 1. Governor is Commander in Chief.

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

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

Section 1. Convention of the People.

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

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

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

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

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

Sec. 4. Revision or amendment by legislative initiation.

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

**ARTICLE XIV
MISCELLANEOUS**

Section 1. Seat of government.

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

Sec. 2. State boundaries.

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

Sec. 3. General laws defined.

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

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

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

Sec. 5. Conservation of natural resources.

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

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

CONSTITUTION OF NORTH CAROLINA

Sec. 6. Marriage.

Marriage between one man and one woman is the only domestic legal union that shall be valid or recognized in this State. This section does not prohibit a private party from entering into contracts with another private party; nor does this section prohibit courts from adjudicating the rights of private parties pursuant to such contracts.

SESSION LAWS
OF THE
STATE OF NORTH CAROLINA

REGULAR SESSION 2012

Session Law 2012-1

S.B. 727

AN ACT TO ELIMINATE THE DUES CHECKOFF OPTION FOR ACTIVE AND
RETIRED PUBLIC SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-426.40A(g) reads as rewritten:

"(g) Payroll Deduction for Payments to Certain Employees' Associations Allowed. – An employee of the State or any of its political ~~subdivisions,~~ subdivisions other than local boards of education, institutions, departments, bureaus, agencies or commissions, or any of its ~~local boards of education or~~ community colleges, who is a member of a domiciled employees' association that has at least 2,000 members, 500 of whom are employees of the ~~State,~~ State or a political subdivision of the State, or public school employees, State other than a local board of education, may authorize, in writing, the periodic deduction each payroll period from the employee's salary or wages a designated lump sum to be paid to the employees' association. A political subdivision may also allow periodic deductions for a domiciled employees' association that does not otherwise meet the minimum membership requirements set forth in this paragraph.

~~An employee of any local board of education who is a member of a domiciled employees' association that has at least 40,000 members, the majority of whom are public school teachers, may authorize in writing the periodic deduction each payroll period from the employee's salary or wages a designated lump sum or sums to be paid for dues and voluntary contributions for the employees' association.~~

An authorization under this subsection shall remain in effect until revoked by the employee. A plan of payroll deductions pursuant to this subsection for employees of the State and other association members shall become void if the employees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit. This subsection does not apply to county or municipal governments or any local governmental ~~unit, except for local boards of education unit.~~"

SECTION 2. G.S. 135-18.8 reads as rewritten:

"§ 135-18.8. Deduction for payments to certain employees' or retirees' associations allowed.

Any beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the ~~State or public school employees,~~ State may authorize, in writing, the periodic deduction from the beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association

engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit."

SECTION 3. This act becomes effective July 1, 2011.

In the General Assembly read three times and ratified this the 9th day of June, 2011.

Became law notwithstanding the objections of the Governor, 1:12 a.m. this 5th day of January, 2012.

Session Law 2012-2

S.B. 797

AN ACT TO ENSURE ADEQUATE FUNDING IN THE STATE MEDICAID PROGRAM FOR THE 2011-2012 FISCAL YEAR; TO PROHIBIT THE DRAWING DOWN OR TRANSFERRING OF MEDICAID DISPROPORTIONATE SHARE RECEIPTS OR OTHER FUNDS IF DOING SO WOULD CREATE OR INCREASE A FINANCIAL OBLIGATION IN THE 2012-2013 FISCAL YEAR; AND TO REQUIRE PRIOR APPROVAL FROM THE GENERAL ASSEMBLY BEFORE ISSUING ANY REQUESTS FOR PROPOSALS OR ENTERING INTO ANY NEW CONTRACTS FOR THE OPERATIONAL OVERSIGHT OR MANAGEMENT OF HEALTH SERVICES FOR INMATES IN THE STATE PRISON SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) In order to ensure that there is adequate funding in the Medicaid budget for the 2011-2012 fiscal year, the General Assembly directs the Director of the Budget, in conjunction with the State Controller and other necessary State officials, to effectuate the following extraordinary budget adjustments in an amount not to exceed two hundred five million five hundred thousand dollars (\$205,500,000). These adjustments are set forth in priority order, and no adjustment shall be made until the preceding adjustment has been completely exhausted in the permissible amount. To the extent necessary to ensure payment to providers for the remainder of the 2011-2012 fiscal year, the following adjustments are authorized in priority order:

- (1) Transfer a minimum of twenty-nine million dollars (\$29,000,000) of funds available within the Department of Health and Human Services. Neither the Director of the Budget nor any other State official, officer, or agency shall, pursuant to this subdivision, authorize any transfer of unearned or borrowed Medicaid Disproportionate Share Receipts or transfer of any funds if the action would create or increase a financial obligation in the 2012-2013 fiscal year or any subsequent fiscal year.
- (2) Transfer twenty-one million dollars (\$21,000,000) in unanticipated federal Children's Health Insurance Program Reauthorization Act bonus funds to the State Controller to be deposited in Nontax Budget Code 19978 or the appropriate budget code as determined by the State Controller. These funds are hereby appropriated.
- (3) Transfer ten million five hundred thousand dollars (\$10,500,000) currently allocated to the Department of Health and Human Services from Budget Code 19945, the Repairs and Renovations Reserve Account, to the State Controller to be deposited in Nontax Budget Code 19978 or the appropriate budget code as determined by the State Controller, notwithstanding G.S. 143C-4-3. If funds are transferred pursuant to this subdivision, then notwithstanding G.S. 143C-4-3, Section 30.5 of S.L. 2011-145, or any other provision of law, the Office of State Budget and Management shall not allocate or use funds in the Repairs and Renovations Reserve Account to replace those funds. These funds are hereby appropriated.

- (4) Transfer of projected 2011-2012 General Fund reversions from all State agencies and departments, including debt service reversions, in the amount of one hundred five million dollars (\$105,000,000). Neither the Director of the Budget nor any other State official, officer, or agency shall authorize any such transfer that creates or increases a financial obligation in the 2012-2013 fiscal year or any subsequent fiscal year.
- (5) Transfer twenty million dollars (\$20,000,000) currently allocated to the various State agencies from Budget Code 19945, the Repairs and Renovations Reserve Account, to the State Controller to be deposited in Nontax Budget Code 19978 or the appropriate budget code as determined by the State Controller. If funds are transferred pursuant to this subdivision, then notwithstanding G.S. 143C-4-3, Section 30.5 of S.L. 2011-145, or any other provision of law, the Office of State Budget and Management shall ensure priority is given to excluding from transfer those funds specifically allocated to State agencies to address health and safety projects. These funds are hereby appropriated.
- (6) Transfer of projected revenue overcollections for the 2011-2012 fiscal year in the amount up to twenty million dollars (\$20,000,000). These funds are hereby appropriated.

SECTION 1.(b) Subsection (a) of this section applies only to funds required to cover the costs of paying Medicaid providers during the 2011-2012 fiscal year. Transfers under each subdivision of subsection (a) of this section shall be limited to the amounts actually required to pay providers through the end of the 2011-2012 fiscal year. To the extent that the full amount of any of these funds is not required to pay providers through the end of the 2011-2012 fiscal year, (i) the authority to transfer funds shall immediately lapse with respect to the unneeded portions and unneeded adjustments; and (ii) any excess funds transferred shall be transferred back to the source fund.

SECTION 1.(c) On or before October 1, 2012, the Office of State Budget and Management and the Department of Health and Human Services shall report on the measures taken pursuant to this section to the Appropriations/Base Budget Committee of the Senate, the Appropriations Committee of the House of Representatives, and the Joint Legislative Commission on Governmental Operations.

SECTION 2. Notwithstanding any other provision of law, neither the Director of the Budget nor any other State official, officer, or agency shall draw down or transfer unearned or borrowed receipts or other funds if doing so would create or increase a financial obligation in the 2012-2013 fiscal year.

SECTION 3. During the 2011-2013 fiscal biennium, the State of North Carolina shall not issue any request for proposals for, or enter into any new contract for, the operational oversight or management of health care services for inmates in the State prison system without the prior approval of the General Assembly through a legislative act. However, notwithstanding the provisions of this subsection, the Department of Public Safety may continue to enter into contracts with providers to staff clinics within the existing health care delivery system without such prior approval.

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

In the General Assembly read three times and ratified this the 24th day of May, 2012.

Became law upon approval of the Governor at 3:26 p.m. on the 24th day of May, 2012.

Session Law 2012-3

H.B. 5

AN ACT TO EXERCISE THE POWER OF THE GENERAL ASSEMBLY UNDER SECTION 1 OF ARTICLE VII OF THE NORTH CAROLINA CONSTITUTION TO FIX THE BOUNDARIES OF CITIES AND GIVE SUCH POWERS TO CITIES AS IT DEEMS ADVISABLE BY DEANNEXING SPECIFIED LOCAL INVOLUNTARY ANNEXATION AREAS, BY REPEALING SPECIFIED INVOLUNTARY ANNEXATION ORDINANCES, AND BY PROHIBITING MUNICIPAL INITIATION OF ANY PROCEDURE TO INVOLUNTARILY ANNEX THOSE AREAS FOR TWELVE YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Deannexation. – Any area affected by an annexation ordinance described in Section 4 of this act that is part of the corporate limits of a municipality on the effective date of this act is hereby removed from that municipality's corporate limits on the effective date of this act. The operation and enforcement of any annexation ordinance described in Section 4 of this act that is pending on the effective date of this act is suspended on and after the effective date of this act.

SECTION 2. Repeal annexation ordinances. – All annexation ordinances described in Section 4 of this act are repealed as of the effective date of this act.

SECTION 3. Twelve-year prohibition on involuntary annexation. – All areas affected by the annexation ordinances described in Section 4 of this act shall not be subject to any annexation proceeding, other than a voluntary annexation under Part 1 or Part 4 of Article 4A of Chapter 160A of the General Statutes, or local act of the General Assembly, for a period of 12 years from and after the effective date of this act. After the 12-year period, the area may be subject to annexation in accordance with State law effective at that time.

SECTION 4. Repealed involuntary annexation ordinances. –

- (1) Kinston annexation ordinance, as described in House Bill 5, First Edition, 2011 Regular Session.
- (2) Lexington annexation ordinance, as described in House Bill 37, First Edition, 2011 Regular Session.
- (3) Rocky Mount annexation ordinance, as described in House Bill 56, First Edition, 2011 Regular Session.
- (4) Wilmington annexation ordinance, described in House Bill 180, First Edition, 2011 Regular Session.
- (5) Asheville/Biltmore Lake annexation ordinance, as described in House Bill 236, First Edition, 2011 Regular Session.
- (6) Marvin annexation ordinance, affecting the area described in RS 2008-02-02, a resolution of the Village of Marvin Council.
- (7) Southport annexation ordinance, affecting "Area A" and "Area B," as described in City of Southport annexation ordinance, adopted June 9, 2011.
- (8) Goldsboro annexation ordinance, affecting the area described in Senate Bill 314, First Edition, 2011 Regular Session.
- (9) Fayetteville Gates Four annexation ordinance, as described in House Bill 231, First Edition, 2011 Regular Session.

SECTION 5. Repeal of 2011 Session Laws. – S.L. 2011-173 and S.L. 2011-177 are repealed.

SECTION 6. Severability. – 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 7. This act becomes effective from and after July 1, 2012.

In the General Assembly read three times and ratified this the 30th day of May, 2012.

Became law on the date it was ratified.

Session Law 2012-4

S.B. 745

AN ACT TO PRESERVE THE THREE-TIER DISTRIBUTION SYSTEM FOR MALT BEVERAGES IN NORTH CAROLINA BY CLARIFYING PROVISIONS OF THE BEER FRANCHISE LAW TO PROVIDE: A FRANCHISE AGREEMENT APPLIES TO ALL SUPPLIER PRODUCTS UNDER THE SAME BRAND NAME; A WHOLESALER MUST SELL MALT BEVERAGES TO ALL RETAILERS IN ITS TERRITORY AT THE SAME PRICE AT THE TIME OF DELIVERY; PROHIBITED ACTS OF SUPPLIERS WITH RESPECT TO THEIR DEALINGS WITH WHOLESALERS; GOOD CAUSE FOR TERMINATION MAY NOT BE MODIFIED BY AN AGREEMENT THAT DEFINES GOOD CAUSE IN A MANNER DIFFERENT THAN PROVIDED BY STATE LAW; REVERSION OF SMALL BREWERIES' SELF-DISTRIBUTION RIGHTS UNDER CERTAIN CIRCUMSTANCES; CERTAIN ACTS THAT DO NOT AMOUNT TO GOOD CAUSE FOR TERMINATION OF A FRANCHISE; REMEDIES FOR A SUPPLIER'S WRONGFUL TERMINATION OF A FRANCHISE; INCLUSION OF A WHOLESALER MERGER, THE FACTORS THAT MAY BE CONSIDERED BY THE SUPPLIER IN APPROVING A MERGER OR TRANSFER, AND REMEDIES FOR UNLAWFUL REFUSAL TO APPROVE A MERGER OR TRANSFER; THE BEER FRANCHISE LAW MAY NOT BE WAIVED BY AN AGREEMENT CONTRARY TO STATE LAW; AND MEDIATION OF DISPUTES ARISING UNDER THE BEER FRANCHISE LAW; AND TO ALLOW THE ABC COMMISSION TO GRANT A WAIVER ALLOWING THE GENERAL MANAGER OF A LOCAL BOARD TO ALSO BE THE FINANCE OFFICER.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 18B of the General Statutes reads as rewritten:

"Article 13.

"Beer Franchise Law.

" ...

"§ 18B-1303. Filing of distribution agreement; no discrimination.

(a) Filing. – It is unlawful for a supplier to provide malt beverages to a wholesaler unless the Commission has received notification from the supplier designating the brands of the supplier which the wholesaler is authorized to sell and the territory in which such sales may take place. If the supplier sells several brands, the agreement need not apply to all brands. A franchise agreement applies to all supplier products under the same brand name, and different categories of products manufactured under a common identifying trade name are considered to be the same brand. No supplier may provide by a distribution agreement for the distribution of a brand to more than one wholesaler for the same territory. A wholesaler shall not distribute any brand of malt beverage to a retailer whose premises are located outside the territory specified in the wholesaler's distribution agreement for that brand. A wholesaler may, however, with the approval of the Commission distribute malt beverages outside ~~his~~its designated territory during periods of temporary service interruption when requested to do so by the supplier and the wholesaler whose service is interrupted.

(b) No Discrimination. – A wholesaler shall service all retail permit holders within his designated territory without discrimination and shall make a good faith effort to make available to each retail permit holder in the territory each brand of malt beverage which the wholesaler has been authorized to distribute in that area.

(c) No Price Maintenance. – A franchise agreement shall not, either expressly or by implication or in its operation, establish or maintain the resale price of any brand of malt beverages by a wholesaler.

"§ 18B-1304. Prohibitions.

It is unlawful for a supplier, or an officer, agent or representative of a supplier, to:

- (1) Coerce or attempt to coerce or persuade a wholesaler to violate any provision of the ABC laws or rules of the Department of ~~Revenue;~~ Revenue.
- (2) ~~Alter~~ Except as authorized by G.S. 18B-1305(a1), alter in a material way, terminate, fail to renew, or cause a wholesaler to resign from, a franchise agreement with a wholesaler except for good cause and with the notice required by G.S. 18B-1305.
- (3) Withdraw money from or otherwise access a wholesaler's bank accounts without the wholesaler's consent.
- (4) Present a franchise agreement, amendment, or renewal to a wholesaler that attempts to waive compliance with any provision of this Article or that requires a wholesaler to waive compliance with any provision of this Article. A wholesaler entering into a franchise agreement containing provisions in conflict with this Article shall not be deemed to waive rights protected by, or in compliance with, any provision of this Article.
- (5) Induce or coerce, or attempt to induce or coerce, any wholesaler to assent to any franchise agreement, amendment, or renewal that does not comply with this Article and the laws of this State.
- (6) Coerce or attempt to coerce a wholesaler, or its designated or anticipated successor, to sign a franchise agreement, amendment, or renewal to a franchise agreement by threatening to refuse to approve or delay issuing an approval for the sale, transfer, or merger of a wholesaler's business.
- (7) Terminate, cancel, or nonrenew or attempt to terminate, cancel, or nonrenew a franchise agreement on the basis that the wholesaler fails to agree or consent to an amendment to the franchise agreement.
- (8) Prohibit a wholesaler from distributing the product of any other supplier, except that a supplier may prohibit a wholesaler from distributing the product of another supplier if reasonable grounds exist for prohibiting the wholesaler's acquisition of the product and the acquisition would result in the wholesaler acquiring eighty percent (80%) or more by volume of all malt beverage products sold in the territory being acquired at the time of the acquisition.
- (9) Refuse to approve or require a wholesaler to terminate a brand manager or successor manager without good cause. A supplier has good cause only if the person designated for approval by the wholesaler fails to meet reasonable standards and qualifications.
- (10) Discriminate in price, allowance, rebate, refund, payment term, commission, discount, or service between wholesalers licensed in North Carolina. As used in this subsection, "discriminate" means the granting of a more favorable price, allowance, rebate, refund, payment term, commission, discount, or service to one North Carolina wholesaler than to another North Carolina wholesaler based on the quantity of malt beverages purchased or for any other reason, but "discriminate" shall exclude the granting of more favorable freight and transportation costs, price promotions on malt beverage products for special events in a particular market not to exceed 14 consecutive days, point-of-sale advertising materials, sponsorships, consumer specialty items, consumer sweepstakes, and novelties. A supplier may, however, offer a lower price or discount in order to match that of a competing supplier on a

similar category of malt beverage products in the entire State or in a particular market.

"§ 18B-1305. Cause for termination of franchise agreement.

(a) **Meaning of Good Cause.** – Good cause for altering or terminating a franchise agreement, or failing to renew or causing a wholesaler to resign from such an agreement, exists when the wholesaler fails to comply with provisions of the agreement which are reasonable, material, not unconscionable, and which are not discriminatory when compared with the provisions imposed, by their terms or in the manner of enforcement, on other similarly situated wholesaler by the supplier. The meaning of good cause set out in this section may not be modified or superseded by provisions in a written franchise agreement prepared by a supplier if those provisions purport to define good cause in a manner different than specified in this section. In any dispute over alteration, termination, failure to renew or causing a wholesaler to resign from a franchise agreement, the burden is on the supplier to establish that good cause exists for the action.

(a1) **Termination by a Small Brewery.** – A brewery's authorization to distribute its own malt beverage products pursuant to G.S. 18B-1104(7) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction.

(b) **Notice of Cause.** – At least 90 days before altering, terminating or failing to renew a franchise agreement for good cause, the supplier must give the wholesaler written notice of the intended action and the specific reasons for it. If the cause for the alteration, termination or failure to renew is subject to correction by the wholesaler, and the wholesaler makes such correction within 45 days of receipt of the notice, the notice shall be void.

(c) **Termination for Cause without Advance Notice.** – A supplier may terminate or fail to renew a franchise agreement for any of the following reasons, and the termination shall be complete upon receipt by the wholesaler of a written notice of the termination and the reason:

- (1) Insolvency of the wholesaler, the dissolution or liquidation of the wholesaler, or the filing of any petition by or against the wholesaler under any bankruptcy or receivership law which materially affects the wholesaler's ability to remain in business.
- (2) Revocation of the wholesaler's State or federal permit or license for more than 30 days.
- (3) Conviction of the wholesaler, or of a partner or individual who owns ten percent (10%) or more of the partnership or stock of the wholesaler, of a felony which might reasonably be expected to adversely affect the goodwill or interest of the wholesaler or supplier. The provisions of this subdivision shall not apply, however, if the wholesaler or its existing partners or stockholders shall have the right to purchase the interest of the offending partner or stockholder, and such purchase is completed within ~~45~~30 days of the conviction.
- (4) Fraudulent conduct by the wholesaler in its dealings with the supplier or its products.
- (5) Failure of the wholesaler to pay for the supplier's products according to the established terms of the supplier.
- (6) Assignment, sale or transfer of the wholesaler's business or control of the wholesaler without the written consent of the supplier, except as provided in G.S. 18B-1307.

(d) Absence of Good Cause. – Good cause for alteration, termination or failure to renew a franchise agreement does not include:

- (1) The failure or refusal of the wholesaler to engage in any trade practice, conduct or activity which would violate federal or State law.
- (2) The failure or refusal of the wholesaler to take any action which would be contrary to the provisions of this Article.
- (3) A change in the ownership of the supplier or the acquisition by another supplier of the brewery, brand or trade name or trademark, or acquisition of the right to distribute a product, from the original supplier.
- (4) Sale or transfer of the rights to manufacture, distribute, or use the trade name of the brand to a successor supplier.
- (5) Failure of the wholesaler to meet standards of operation or performance that have been imposed or revised unilaterally by the supplier without a fair opportunity for the individual wholesaler to bargain as to the terms, unless the supplier has implemented the standards on a national basis and those standards are consistently applied to all similarly situated North Carolina wholesalers in a nondiscriminatory manner.
- (6) The establishment of a franchise agreement between a wholesaler and another supplier, or similar acquisition by a wholesaler of the right to distribute a brand of another supplier.
- (7) The desire of a supplier to consolidate its franchises.

"§ 18B-1306. Remedies for wrongful termination.

(a) Injunctive Relief. – A wholesaler whose franchise agreement is altered, terminated or not renewed in violation of this Article may bring an action to enjoin such unlawful alteration, termination or failure to renew. The action may be brought in the county in which the wholesaler has its principal place of business or in any county in which the wholesaler receives or distributes the products in issue. Any injunction issued pursuant to this subsection shall require the wholesaler to supply the customers in its territory with their reasonable retail requirements and to otherwise serve the territory.

(b) Monetary Damages. – In lieu of injunctive relief, a wholesaler whose franchise agreement is altered, terminated or not renewed in violation of this Article shall be entitled to recover monetary damages from the supplier. The amount to which the wholesaler is entitled shall be the value of the wholesaler's business distributing the supplier's products, including:

- (1) The laid-in costs to the wholesaler of the inventory of the supplier's products, including any State and local taxes paid on the inventory by the wholesaler, plus a reasonable charge for handling of the products upon surrender of the inventory to the supplier.
- (2) The fair market value of all assets, including ancillary businesses of the wholesaler used in distributing the supplier's products. The total compensation to be paid to the wholesaler shall be reduced, however, by any amount received by the wholesaler from sale of assets of the business used in distributing the supplier's products as well as by the value such assets have to the wholesaler unrelated to the supplier's products. "Fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at a time prior to the alteration, termination or failure to renew, when each possesses all information relevant to the transaction.

"§ 18B-1307. Transfer or merger of wholesaler's business.

(a) Right of Transfer to Designated Family Member upon Death. – Upon the death of a wholesaler, that individual's interest in the wholesaler business, including the rights under the franchise agreement with the supplier, may be transferred or assigned to a designated family member. The transfer or assignment shall not be effective until written notice is given to the supplier, but the supplier's consent is not required for the transfer or assignment. "Designated

family member" means the deceased wholesaler's spouse, child, grandchild, parent, brother or sister, who is entitled to inherit the deceased wholesaler's ownership interest under the terms of the deceased wholesaler's will or other testamentary device or under the laws of intestate succession. With respect to an incapacitated individual having an ownership interest in a wholesaler, the term "designated family member" also means the person appointed by the court as the conservator of such individual's property. The term also includes the appointed and qualified personal representative and the testamentary trustee of a deceased wholesaler.

(b) Approval of Certain ~~Transfers~~.~~Transfers and Mergers~~. – Upon notice to and approval by the supplier, an individual owning an interest in a wholesaler may sell, assign or transfer that interest, including the wholesaler's rights under its franchise agreement with the supplier, to any qualified person. Likewise, a wholesaler may merge with another wholesaler in the State, transferring to the new wholesaler entity the merging wholesaler's existing franchise rights. Within 30 days of receipt of notice of the intended sale, ~~assignment or transfer,~~ assignment, transfer, or merger, the supplier shall request any additional relevant, material information reasonably necessary for deciding whether to approve the transaction. The supplier shall have 30 days from receipt of that information to object to the sale, ~~assignment or transfer,~~ assignment, transfer, or merger. The supplier may object only if the proposed ~~transferee~~ transferee, or the wholesalership resulting from the merger, fails to meet qualifications and standards that are nondiscriminatory, material, reasonable and consistently applied to North Carolina wholesalers by the supplier. The burden shall be upon the supplier to prove that the proposed transferee or merged wholesaler is not qualified. In determining whether the proposed transferee or merged wholesaler is a qualified person, the supplier shall consider, but is not limited to, the following factors:

- (1) Whether the proposed transferee has the financial capacity to purchase the wholesaler or the specified interest upon terms that will not jeopardize the future operation of the business, or whether the new entity resulting from a merger will have such financial capacity to operate successfully, and whether under such ownership the wholesaler will be able to provide financial support necessary to the successful operation of the business, including market spending, capital expenditures, and any equity capitalization or refinancing requirements.
- (2) Whether the proposed transferee, or the new entity resulting from a merger, has the proven business experience to hire and maintain a management team to successfully operate the business.
- (3) If the proposed transferee does not have experience in the beer business, whether the transferee has other experience to enable it to operate a distributorship successfully and whether the transferee is willing to participate in training provided by the supplier.
- (4) Whether the proposed transferee, or a party to the merger, already is a wholesaler for the supplier in a different territory and, if so, whether sufficient time and attention can be devoted to an additional market area.

In determining whether a proposed transferee, or the entity resulting from a merger, is a qualified person, a supplier must consider the business on its own merits and may not designate a specifically identified person as the only purchaser who will be approved. Nothing in this subsection is intended to or should be construed to interfere with a supplier's right to match and reassign to a designee the right to purchase the ownership interest, subject to the designee purchasing the ownership interest at the price and on the conditions applicable to the purchase proposed by the transferee.

(c) Damages. – A supplier who disapproves or prevents a proposed assignment or change of ownership or merger in violation of this section shall be liable to the wholesaler who proposed to make the sale, ~~assignment or transfer~~ assignment, transfer, or merger for the difference between the disapproved sale price and a subsequent actual price of a sale of the same assets completed within a reasonable period. If, however, the proposed transfer or sale

was to a business associate at a bargain price, the amount of compensation shall be at least the fair market value of the interest proposed to be sold or transferred, minus the proceeds of an actual sale of the interest completed within a reasonable time.

"§ 18B-1308. Article part of all franchise agreements.

The provisions of this Article shall be part of all franchise agreements as defined in G.S. 18B-1302 and may not be altered by the parties. A wholesaler's rights under this Article may not be waived or superseded by the provisions of a written franchise agreement prepared by a supplier that are in any way inconsistent with or contrary to any part of this Article. The rights of a wholesaler under this Article shall remain in effect regardless of a provision in a written franchise agreement prepared by a supplier that purports to require arbitration of a franchise dispute or that purports to require legal remedies to be sought in a different jurisdiction.

"§ 18B-1309. Mediation at direction of Alcoholic Beverage Control Commission.

If a dispute arises between a wholesaler and supplier under this Article, and such dispute appears likely to lead to litigation, the Commission, upon request of any party or on its own initiative, may require the parties to participate in mediation in an effort to resolve the dispute. This authority shall be in addition to the Commission's authority to issue declaratory rulings pursuant to G.S. 150B-4. The Commission may designate the mediator, in which case the Commission shall pay the mediator's fee, or the Commission may direct the parties to agree upon and share the costs of a mediator. If the parties then cannot agree upon a mediator, the Commission shall designate the mediator, and the fees shall be divided evenly by the parties. The Commission shall direct that the mediation be completed within a specified period of time. Except for injunctive relief, no lawsuit or other legal action concerning the dispute may be filed until the mediation is completed and is unsuccessful, unless necessary to avoid expiration of a statute of limitation."

SECTION 2. G.S. 18B-702(j) reads as rewritten:

"(j) Finance Officer. – Except as otherwise provided, the local board shall designate (i) a part-time or full-time employee of the board other than the general manager or (ii) the finance officer of the appointing authority with consent of the appointing authority to be the finance officer for the local board. The Commission, for good cause shown, may grant a waiver to allow the general manager of a board also to be the finance officer. Good cause includes, but is not limited to, the fact that the board operates no more than two stores, and any approval for the general manager also to be the finance officer shall apply until the board operates more than two stores; in any event, the approval shall be effective for 36 months. The Commission may grant one or more waivers to a board."

SECTION 3. The provisions of this act are severable and, if any phrase, clause, sentence, or provision is declared to be unconstitutional, is preempted by federal law or regulation, or is otherwise invalid, the validity of the remainder of this act shall not be affected thereby.

SECTION 4. The provisions of G.S. 18B-1304, as amended by this act, become effective October 1, 2012. The remainder of this act is effective when it becomes law and applies to all transactions on or after that date.

In the General Assembly read three times and ratified this the 24th day of May, 2012.

Became law upon approval of the Governor at 3:31 p.m. on the 4th day of June, 2012.

Session Law 2012-5

H.B. 1063

AN ACT TO GIVE THE JOHNSTON COUNTY BOARD OF EDUCATION ADDITIONAL FLEXIBILITY WITH REGARD TO INSTRUCTIONAL TIME LOST AT MCGEE'S CROSSROADS ELEMENTARY SCHOOL.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 115C-84.2, the Johnston County Board of Education may excuse one instructional day at McGee's Crossroads Elementary School so long as the school completes the required number of instructional hours for the 2011-2012 school year.

SECTION 2. This act applies only to the instructional day missed at McGee's Crossroads Elementary School on May 11, 2012, due to a break in a water line.

SECTION 3. This act is effective when it becomes law and applies only to the 2011-2012 school year.

In the General Assembly read three times and ratified this the 6th day of June, 2012.
Became law on the date it was ratified.

Session Law 2012-6

S.B. 582

AN ACT TO AUTHORIZE ADDITIONAL CLASS III GAMING ON INDIAN LANDS PURSUANT TO A TRIBAL-STATE GAMING COMPACT, TO CREATE THE INDIAN GAMING EDUCATION REVENUE FUND, AND TO APPROPRIATE FUNDS.

Whereas, acting under her authority under the General Statutes, the Governor has negotiated on behalf of the State an Amended & Restated Tribal Gaming Compact (Compact) with the Eastern Band of Cherokee Indians that modifies the type of gaming activity authorized on Indian lands and generates revenue for the benefit of both the Eastern Band of Cherokee Indians and the State; and

Whereas, the Compact is effective upon the General Assembly amending the General Statutes to authorize additional Class III gaming activities on Indian lands, as set out in the Compact and upon approval by the U.S. Department of Interior; and

Whereas, the Governor and the Eastern Band of Cherokee Indians intend for the State's portion of revenue derived from the Compact to be applied toward the improvement of classroom education in North Carolina by appropriation from a distinct fund and have urged this General Assembly to consider making the necessary appropriations according to law to accomplish this goal; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 143C of the General Statutes is amended by adding a new section to read:

"§ 143C-9.7. Indian Gaming Education Revenue Fund.

(a) The "Indian Gaming Education Revenue Fund" is established in the State Treasury. Funds shall be expended from the Indian Gaming Education Revenue Fund only by specific appropriation by the General Assembly.

(b) Funds received in the Indian Gaming Education Revenue Fund are hereby appropriated as received to the State Public School Fund for quarterly allotment by the State Board of Education to local school administrative units, charter schools, and regional schools on the basis of allotted average daily membership. The funds allotted by the State Board of Education pursuant to this section shall be nonreverting. Funds received pursuant to this section by local school administrative units shall be expended for classroom teachers, teacher assistants, classroom materials or supplies, or textbooks."

SECTION 2. Article 37 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-292.2. Class III gaming on Indian lands.

(a) Except as otherwise provided in this section, and notwithstanding any laws which make Class III gaming, as defined by the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2701, et seq., unlawful in this State, the Class III gaming activities listed in subsection (b) of this section may legally be conducted on Indian lands that are held in trust by the United States government for and on behalf of federally recognized Indian tribes, if all the following apply:

- (1) The Class III games are conducted in accordance with a valid Class III Tribal-State Gaming Compact or an amendment to a Compact, applicable to the tribe, that has been negotiated and entered into by the Governor under the authority provided in G.S. 147-12(a)(14) and G.S. 71A-8.
- (2) The Tribal-State Gaming Compact has been approved by the U.S. Department of the Interior.
- (3) The Tribal-State Gaming Compact requires that all monies paid by the tribe under the Compact be paid to the Indian Gaming Education Revenue Fund established by law.

(b) The following Class III games may lawfully be conducted pursuant to subsection (a) of this section:

- (1) Gaming machines.
- (2) Live table games.
- (3) Raffles, as defined in G.S. 14-309.15(b).
- (4) Video games, as defined in G.S. 14-306 and G.S. 14-306.1A.

(c) Nothing in this section shall modify or affect laws applicable to persons or entities other than federally recognized Indian tribes operating games in accordance with subsection (a) of this section.

(d) Notwithstanding any other provision of law, there shall be no more than three Class III gaming facilities authorized by a Compact entered under subsection (a) of this section on the lands of any single Indian tribe, and a Compact that authorizes or allows for the operation of more than three such facilities shall be invalid.

(e) As used in this section, the following terms mean:

- (1) Gaming machine. – A machine that meets the definition of any of the following:
 - a. As set forth in G.S. 14-306.
 - b. "Gaming machine" as set forth in 25 C.F.R. § 542.2.
 - c. "Gambling device" as set forth in 15 U.S.C. § 1171.
- (2) Live table games. – Games that utilize real nonelectronic cards, dice, chips, or equipment in the play and operation of the game."

SECTION 3. G.S. 14-306.1A(e) is repealed.

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

In the General Assembly read three times and ratified this the 6th day of June, 2012.

Became law upon approval of the Governor at 3:27 p.m. on the 6th day of June, 2012.

Session Law 2012-7

H.B. 778

AN ACT TO AMEND LAWS RELATING TO THE NORTH CAROLINA INNOCENCE INQUIRY COMMISSION AND THE PRESERVATION OF BIOLOGICAL EVIDENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-268(a1) reads as rewritten:

"(a1) Notwithstanding any other provision of law and subject to subsection (b) of this section, a custodial agency shall preserve any physical ~~evidence~~ evidence, regardless of the date of collection, that is reasonably likely to contain any biological evidence collected in the course of a criminal investigation or prosecution. Evidence shall be preserved in a manner

reasonably calculated to prevent contamination or degradation of any biological evidence that might be present, subject to a continuous chain of custody, and securely retained with sufficient official documentation to locate the evidence."

SECTION 2. G.S. 15A-268(a7) reads as rewritten:

"(a7) Upon written request by the defendant, the custodial agency shall prepare an inventory of biological evidence relevant to the defendant's case that ~~has been preserved pursuant to this section~~ is in the custodial agency's custody. If the evidence was destroyed through court order or other written directive, the custodial agency shall provide the defendant with a copy of the court order or written directive."

SECTION 3. G.S. 15A-268(b) reads as rewritten:

"(b) The custodial agency required to preserve evidence pursuant to subsection (a1) of this section may dispose of the evidence prior to the expiration of the period of time described in subsection (a6) of this section if all of the following conditions are met:

- (1) The custodial agency sent notice of its intent to dispose of the evidence to the district attorney in the county in which the conviction was obtained.
- (1a) The custodial agency has determined that it has no duty to preserve the evidence under G.S. 15A-1471.
- (2) The district attorney gave to each of the following persons written notification of the intent of the custodial agency to dispose of the evidence: any defendant convicted of a felony who is currently incarcerated in connection with the case, the defendant's counsel of record for that case, and the Office of Indigent Defense Services. The notice shall be consistent with the provisions of this section, and the district attorney shall send a copy of the notice to the custodial agency. Delivery of written notification from the district attorney to the defendant was effectuated by the district attorney transmitting the written notification to the superintendent of the correctional facility where the defendant was assigned at the time and the superintendent's personal delivery of the written notification to the defendant. Certification of delivery by the superintendent to the defendant in accordance with this subdivision was in accordance with subsection (c) of this section.
- (3) The written notification from the district attorney specified the following:
 - a. That the custodial agency would destroy the evidence collected in connection with the case unless the custodial agency received a written request that the evidence not be destroyed.
 - b. The address of the custodial agency where the written request was to be sent.
 - c. That the written request from the defendant, or his or her representative, must be received by the custodial agency within 90 days of the date of receipt by the defendant of the district attorney's written notification.
 - d. That the written request must ask that the evidence not be destroyed or disposed of for one of the following reasons:
 1. The case is currently on appeal.
 2. The case is currently in postconviction proceedings.
 3. The defendant will file a motion for DNA testing pursuant to G.S. 15A-269 within 180 days of the postmark of the defendant's response to the district attorney's written notification of the custodial agency's intent to dispose of the evidence, unless a request for extension is requested by the defendant and agreed to by the custodial agency.

4. The case has been referred to the North Carolina Innocence Inquiry Commission pursuant to Article 92 of Chapter 15A of the General Statutes.

- (4) The custodial agency did not receive a written request in compliance with the conditions set forth in sub-subdivision (3)d. of this subsection within 90 days of the date of receipt by the defendant of the district attorney's written notification."

SECTION 4. G.S. 15A-1460 reads as rewritten:

"§ 15A-1460. Definitions.

The following definitions apply in this Article:

- (1) "Claim of factual innocence" means a claim on behalf of a living person convicted of a felony in the General Court of Justice of the State of North Carolina, asserting the complete innocence of any criminal responsibility for the felony for which the person was convicted and for any other reduced level of criminal responsibility relating to the crime, and for which there is some credible, verifiable evidence of innocence that has not previously been presented at trial or considered at a hearing granted through postconviction relief.
- (1a) "Claimant" means a person asserting that he or she is completely innocent of any criminal responsibility for a felony crime upon which the person was convicted and for any other reduced level of criminal responsibility relating to the crime.
- (2) "Commission" means the North Carolina Innocence Inquiry Commission established by this Article.
- (3) "Director" means the Director of the North Carolina Innocence Inquiry Commission.
- (4) "Victim" means the victim of the crime, or if the victim of the crime is deceased, the next of kin of the victim."

SECTION 5. G.S. 15A-1467(a) reads as rewritten:

"(a) A claim of factual innocence may be referred to the Commission by any court, ~~person, or agency, a State or local agency, a claimant, or a claimant's counsel.~~ The Commission shall not consider a claim of factual innocence if the convicted person is deceased. The determination of whether to grant a formal inquiry regarding any other claim of factual innocence is in the discretion of the Commission. The Commission may informally screen and dismiss a case summarily at its discretion."

SECTION 6. G.S. 15A-1468(b) reads as rewritten:

"(b) The Director shall use all due diligence to notify the victim at least 30 days prior to any proceedings of the full Commission held in regard to the victim's case. The Commission shall notify the victim that the victim is permitted to attend proceedings otherwise closed to the public, subject to any limitations imposed by this Article. If the victim plans to attend proceedings otherwise closed to the public, the victim shall notify the Commission at least 10 days in advance of the proceedings of his or her intent to attend. ~~If the Commission determines that the victim's presence may interfere with the investigation, the Commission may close any portion of the proceedings to the victim.~~"

SECTION 7. The Innocence Inquiry Commission shall include, as part of its rules of operation, the holding of a prehearing conference to be held at least 10 days prior to any proceedings of the full Commission. Only the following persons shall be notified and authorized to attend the prehearing conference: the District Attorney, or the District Attorney's designee, of the district where the claimant was convicted of the felony upon which the claim of factual innocence is based; the claimant's counsel, if any; the Chair of the Commission; the Executive Director of the Commission; and any Commission staff designated by the Director. The District Attorney, or designee, shall be provided (i) an opportunity to inspect any evidence that may be presented to the Commission that has not previously been presented to any judicial

officer or body and (ii) any information that he or she deems relevant to the proceedings. Prior to any Commission proceedings, the District Attorney or designee is authorized to provide the Commission with a written statement, which shall be included in the record of the Commission's proceedings. Any statement included in the record shall be part of the Commission's record of proceedings pursuant to G.S. 15A-1468(e).

SECTION 8. G.S. 15A-1469 reads as rewritten:

"§ 15A-1469. Postcommission three-judge panel.

(a) If the Commission concludes there is sufficient evidence of factual innocence to merit judicial review, the Chair of the Commission shall request the Chief Justice to appoint a three-judge panel, not to include any trial judge that has had substantial previous involvement in the case, and issue commissions to the members of the three-judge panel to convene a special session of the superior court of the original jurisdiction to hear evidence relevant to the Commission's recommendation. The senior judge of the panel shall preside. The Chief Justice shall appoint the three-judge panel within 20 days of the filing of the Commission's opinion finding sufficient evidence of factual innocence to merit judicial review.

(a1) ~~If there is an allegation of or evidence the Commission concludes that there is credible evidence of prosecutorial misconduct in the case, the Chair of the Commission or the district attorney of the district of conviction may request the Director of the Administrative Office of the Courts Attorney General to appoint a special prosecutor to represent the State in lieu of the district attorney of the district of conviction or the district attorney's designee. The request for the special prosecutor shall be made within 20 days of the filing of the Commission's opinion finding sufficient evidence of innocence to merit judicial review.~~

Upon receipt of a request under this subsection to appoint a special prosecutor, the ~~Director of the Administrative Office of the Courts Attorney General~~ may temporarily assign a district attorney, assistant district attorney, or other qualified attorney, ~~including one from the prosecutorial district where the convicted person was tried,~~ to represent the State at the hearing before the three-judge panel. However, the ~~Director of the Administrative Office of the Courts Attorney General~~ shall not appoint as special prosecutor any attorney who prosecuted or assisted with the prosecution in the trial of the convicted ~~person-person, or is a prosecuting attorney in the district where the convicted person was tried.~~ The appointment shall be made ~~pursuant to G.S. 7A-64 and shall be made~~ no later than 20 days after the receipt of the request.

(b) The senior resident superior court judge shall enter an order setting the case for hearing at the special session of superior court for which the three-judge panel is commissioned and shall require the State to file a response to the Commission's opinion within 90 days of the date of the order. Such response, at the time of original filing or through amendment at any time before or during the proceedings, may include joining the defense in a motion to dismiss the charges with prejudice on the basis of innocence.

(c) The district attorney of the district of conviction, or the district attorney's designee, shall represent the State at the hearing before the three-judge panel, except as otherwise provided by this section.

(d) The three-judge panel shall conduct an evidentiary hearing. At the hearing, the court, and the defense and prosecution through the court, may compel the testimony of any witness, including the convicted person. All credible, verifiable evidence relevant to the case, even if considered by a jury or judge in a prior proceeding, may be presented during the hearing. The convicted person may not assert any privilege or prevent a witness from testifying. The convicted person has a right to be present at the evidentiary hearing and to be represented by counsel. A waiver of the right to be present shall be in writing.

(e) The senior resident superior court judge shall determine the convicted person's indigence status and, if appropriate, enter an order for the appointment of counsel. The court may also enter an order relieving an indigent convicted person of all or a portion of the costs of the proceedings.

(f) The clerk of court shall provide written notification to the victim 30 days prior to any case-related hearings.

(g) Upon the motion of either party, the senior judge of the panel may direct the attorneys for the parties to appear before him or her for a conference on any matter in the case.

(h) The three-judge panel shall rule as to whether the convicted person has proved by clear and convincing evidence that the convicted person is innocent of the charges. Such a determination shall require a unanimous vote. If the vote is unanimous, the panel shall enter dismissal of all or any of the charges. If the vote is not unanimous, the panel shall deny relief.

(i) A person who is determined by the three-judge panel to be innocent of all charges and against whom the charges are dismissed pursuant to this section is eligible for compensation under Article 8 of Chapter 148 of the General Statutes without obtaining a pardon of innocence from the Governor."

SECTION 9. G.S. 7A-64(a1) is repealed.

SECTION 10. Article 92 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-1471. Preservation of files and evidence; production of files and evidence; forensic and DNA testing.

(a) Upon receiving written notice from the Commission of a Commission inquiry, the State shall preserve all files and evidence subject to disclosure under G.S. 15A-903. Once the Commission provides written notice to the State that the Commission's inquiry is complete, the duty to preserve under this section shall cease; however, other preservation requirements may be applicable.

(b) The Commission is entitled to a copy of all records preserved under subsection (a) of this section, including access to inspect and examine all physical evidence.

(c) Upon request of the Commission, the State shall transfer custody of physical evidence to the Commission's Director, or the Director's designee, for forensic and DNA testing. The Commission shall preserve evidence in a manner reasonably calculated to prevent contamination or degradation of any biological evidence that might be present, while subject to a continuous chain of custody and securely retained with sufficient official documentation to locate the evidence. At or prior to the completion of the Commission's inquiry, the Commission shall return all remaining evidence.

(d) The Commission shall have the right to subject physical evidence to forensic and DNA testing, including consumption of biological material, as necessary for the Commission's inquiry. If testing complies with FBI requirements and the data meets NDIS criteria, profiles obtained from the testing shall be searched and uploaded to CODIS. The Commission shall incur all costs associated with ensuring compliance with FBI requirements and NDIS criteria."

SECTION 11. G.S. 148-82(b) reads as rewritten:

"(b) Any person who, having been convicted of a felony after pleading not guilty or nolo contendere and having been imprisoned therefor in a State prison of this State, and who is determined to be innocent of all charges and against whom the charges are dismissed pursuant to G.S. 15A-1469 may as hereinafter provided present by petition a claim against the State for the pecuniary loss sustained by the person through his or her erroneous conviction and imprisonment, provided the petition is presented within five years of the date that the dismissal of the charges is entered by the three-judge panel under G.S. 15A-1469."

SECTION 12. This act is effective when it becomes law and applies to any pending claims on the effective date or claims filed on or after the effective date.

In the General Assembly read three times and ratified this the 30th day of May, 2012.

Became law upon approval of the Governor at 9:24 a.m. on the 7th day of June, 2012.

Session Law 2012-8

H.B. 821

AN ACT TO ALLOW THE DEPARTMENT OF TRANSPORTATION TO USE RECYCLED ASPHALT FOR HIGHWAY CONSTRUCTION AND MAINTENANCE IF IT MEETS THE REQUIRED MINIMUM CONTENT STANDARDS AND THE MATERIAL MEETS THE MINIMUM SPECIFICATIONS FOR THE PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-28.8(b) reads as rewritten:

"(b) The General Assembly declares it to be in the public interest to find alternative ways to use certain recycled materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills. The Department shall, consistent with economic feasibility and applicable engineering and environmental quality standards, use:

- (1) Rubber from tires in road pavements, subbase materials, or other appropriate applications.
- (2) Recycled materials for guard rail posts, right-of-way fence posts, and sign supports.
- (3) Recycling technology, including, but not limited to, hot in-place recycling, in road and highway maintenance.
- (4) Recycled asphalt, provided that minimum content standards are met and the material meets minimum specifications for the project."

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

In the General Assembly read three times and ratified this the 4th day of June, 2012.

Became law upon approval of the Governor at 9:25 a.m. on the 7th day of June,

2012.

Session Law 2012-9

H.B. 340

AN ACT AUTHORIZING THE UTILITIES COMMISSION TO OBTAIN CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR AND CURRENT HOLDERS OF A CERTIFICATE TO TRANSPORT HOUSEHOLD GOODS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Chapter 62 of the General Statutes is amended by adding a new section to read as follows:

"§ 62-273.1. Criminal history record checks of applicants for and current holders of certificate to transport household goods.

- (a) The following definitions apply in this section:
- (1) Applicant. – An individual, partnership, limited liability corporation, or corporation who applies for certification as a common carrier of household goods in the State of North Carolina.
 - (2) Certificate. – A certificate of exemption or a certificate of public convenience and necessity issued by the Utilities Commission to authorize the holder to engage in the intrastate transportation of household goods for compensation in the State of North Carolina.
 - (3) Criminal history. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's or current holder's fitness to possess a certificate.
 - (4) Current holder. – An individual, partnership, limited liability corporation, or corporation who has been certified as a common carrier of household goods in the State of North Carolina.

(b) The Commission shall conduct a criminal history record check of applicants and current holders of a certificate to transport household goods. An applicant for or current holder of a certificate to transport household goods must furnish the Commission with a complete set of the applicant's fingerprints in a manner prescribed by the Commission. In those instances where the quality characteristic of an applicant's or current holder's fingerprints is determined to be too low or otherwise inadequate for processing by the FBI, the applicant or current holder shall comply with the Commission's criminal history record check requirement pursuant to the Commission's alternate name-based records check procedure.

(c) If the applicant's or current holder's verified criminal history record check reveals one or more convictions, the convictions shall not automatically constitute cause for denying an application or revoking a certificate. However, all of the following factors shall be considered by the Commission in determining whether the application should be denied or the certificate revoked:

- (1) The level and seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The nature of the crime as it relates to the duties and responsibilities of a common carrier of household goods.
- (5) The employment history of the person after the date the crime was committed.
- (6) Any evidence of rehabilitation of the person after the date the crime was committed.

(d) The Commission may deny an application or revoke a certificate if the applicant or current holder refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories."

SECTION 2. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-19.31. Criminal history record checks of applicants for and current holders of certificate to transport household goods.

The Department of Justice may provide to the Utilities Commission from the State and National Repositories of Criminal Histories the criminal history of any applicant for or current holder of a certificate to transport household goods. Along with the request, the Commission shall provide to the Department of Justice the fingerprints of the applicant or current holder, a form signed by the applicant or current holder consenting to the criminal history record check and use of fingerprints and other identifying information required by the State and National Repositories of Criminal Histories, and any additional information required by the Department of Justice. The applicant's or current holder'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 Utilities Commission 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 history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. The Department of Justice shall send a copy of the results of the criminal history record checks directly to the Utilities Commission Chief Clerk."

SECTION 3. This act is effective when it becomes law and applies to all persons holding a current certificate of exemption or a certificate of public convenience and necessity on or after that date and to all applications for a certification of exemption or a certificate of public convenience and necessity received by the Commission on or after that date.

In the General Assembly read three times and ratified this the 31st day of May, 2012.
Became law upon approval of the Governor at 9:27 a.m. on the 7th day of June, 2012.

Session Law 2012-10**H.B. 437**

AN ACT HOLDING THE NEW HANOVER COUNTY BOARD OF COMMISSIONERS ACCOUNTABLE FOR THE WORK OF THE AIRPORT AUTHORITY APPOINTED BY THE COMMISSION OR RECEIVING COUNTY FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. It is the duty of the New Hanover County Board of Commissioners (Board) to provide oversight of, and to be accountable for, the activities of the authorities, boards, committees, and commissions acting under the Board's control or authority. To that end, the Board shall monitor the activities of the Airport Authority in order (i) to evaluate whether continued County funding is warranted in each case, as appropriate, and (ii) to determine whether the Board's appointees are carrying out their respective responsibilities in the best interest of New Hanover County.

SECTION 2. Notwithstanding any provision of law to the contrary, the members of the Airport Authority who are appointed by the Board serve at the pleasure of the Board and may be removed by the Board immediately at any time upon the majority vote of the members of the Board.

SECTION 3. This act applies to New Hanover County only.

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

In the General Assembly read three times and ratified this the 7th day of June, 2012.
Became law on the date it was ratified.

Session Law 2012-11**H.B. 925**

AN ACT TO REQUIRE A VOTE OF THE RESIDENTS PRIOR TO THE ADOPTION OF AN ANNEXATION ORDINANCE INITIATED BY A MUNICIPALITY.

The General Assembly of North Carolina enacts:

SECTION 1. Part 7 of Article 4A of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-58.64. Referendum prior to involuntary annexation ordinance.

(a) After the adoption of the resolution of intent under this Part, the municipality shall place the question of annexation on the ballot. The municipal governing board shall notify the appropriate county board or boards of elections of the adoption of the resolution of intent and provide a legible map and clear written description of the proposed annexation area.

(b) In accordance with G.S. 163-58.55, the municipal governing board shall adopt a resolution setting the date for the referendum and so notify the appropriate county board or boards of elections.

(c) The county board or boards of elections shall cause legal notice of the election to be published. That notice shall include the general statement of the referendum. The referendum shall be conducted, returned, and the results declared as in other municipal elections in the municipality. Only registered voters of the proposed annexation area shall be allowed to vote on the referendum.

(d) The referendum of any number of proposed involuntary annexations may be submitted at the same election; but as to each proposed involuntary annexation, there shall be an entirely separate ballot question.

(e) The ballots used in a referendum shall submit the following proposition:

" [] FOR [] AGAINST

The annexation of (clear description of the proposed annexation area)."

(f) If less than a majority of the votes cast on the referendum are for annexation, the municipal governing body may not proceed with the adoption of the annexation ordinance or begin a separate involuntary annexation process with respect to that proposed annexation area for at least 36 months from the date of the referendum. If a majority of the votes cast on the referendum are for annexation, the municipal governing body may proceed with the adoption of the annexation ordinance under G.S. 160A-58.55."

SECTION 2. G.S. 160A-58.55 reads as rewritten:

"§ 160A-58.55. Procedure for annexation.

(a) Resolution of Consideration. – Any municipal governing board desiring to annex territory under the provisions of this Part shall first pass a resolution of consideration identifying the area under consideration for annexation by either a metes and bounds description or a map. The resolution of consideration shall remain effective for two years after adoption and be filed with the municipal clerk. A new resolution of consideration adopted before expiration of the two-year period for a previously adopted resolution covering the same area shall relate back to the date of the previous resolution. Adoption of a resolution of consideration shall not confer prior jurisdiction over the area as to any other municipality.

(b) Notice of Resolution of Consideration. – A notice of the adoption of the resolution of consideration shall be published once a week for two successive weeks, with each publication being on the same day of the week, in a newspaper having general circulation in the municipality. The second publication shall be no more than 30 days following adoption of the resolution of consideration. The resolution of consideration shall contain a map or description of the area under consideration and a summary of the annexation process and time lines. A copy of the resolution of consideration shall be mailed within 30 days after the adoption of the resolution of consideration by first class mail to the property owners of real property located within the area under consideration for annexation as shown by the tax records of the county. If a proposed annexation extends across a county border into a county other than the county where the majority of the area of the existing municipality is located, a copy of the resolution of consideration shall be mailed within 30 days after the adoption of the resolution of consideration by first class mail to the clerk of the board of county commissioners of that county.

(c) Resolution of Intent. – At least one year after adoption of the resolution of consideration, the municipal governing body may adopt a resolution of intent of the municipality to proceed with the annexation of some or all of the area described in the resolution of consideration. The resolution of intent shall describe the boundaries of the area proposed for annexation, fix a date for a public informational meeting, ~~and~~ fix a date for a public hearing on the question of annexation, and fix a date for the referendum on annexation. The date for the public informational meeting shall be not less than 45 days and not more than 55 days following passage of the resolution of intent. The date for the public hearing shall be not less than 130 days and not more than 150 days following passage of the resolution of intent. The date of the referendum on annexation shall be set for the next municipal general election that is more than 45 days from the date of the resolution of intent.

(d) Notice of Public Informational Meeting, Public Hearing, and Opportunity for Water and Sewer. – A combined notice of public informational meeting and public hearing shall be issued as provided for in this subsection as follows:

- (1) The notice shall be a combined notice that includes at least all of the following:
 - a. The date, hour, and place of the public informational meeting.
 - b. The date, hour, and place of the public hearing.
 - c. A clear description of the boundaries of the area under consideration, including a legible map of the area.

- d. A statement that the report required by G.S. 160A-58.53 will be available at the office of the municipal clerk.
 - e. An explanation of a property owner's rights under this section.
 - f. A summary of the annexation process with time lines.
 - g. A summary of the opportunity to vote in the referendum and available statutory remedies for denying and appealing the annexation and the failure to provide services.
 - h. Information on how to request to become a customer of the water and sewer service, all forms to request that service, and the consequences of opting in or opting out, as provided in G.S. 160A-58.56.
 - i. A clear description of the distinction between the public informational meeting and the public hearing.
- (2) The combined notice shall be given by publication of the information required by sub-subdivisions (1)a., b., and c. of this subsection and a statement regarding the availability of the information required by the remaining sub-subdivisions of subdivision (1) of this subsection in a newspaper having general circulation in the municipality once a week for at least two successive weeks prior to the date of the public informational meeting, with each publication being on the same day of the week. The date of the last publication shall be not more than 10 days preceding the date of the public informational meeting. In addition thereto, if the area proposed to be annexed lies in a county containing less than fifty percent (50%) of the land area of the municipality, the same publication shall be given in a newspaper having general circulation in the area of proposed annexation. If there is no such newspaper, the municipality shall post the notice in at least five public places within the municipality and at least five public places in the area to be annexed for 30 days prior to the date of public informational meeting.
- (3) The combined notice, together with the information about requesting water and sewer service, shall be mailed within five business days of the passage of the resolution of intent by first class mail to the property owners of real property located within the area to be annexed as shown by the tax records of the county. The person or persons mailing such notices shall certify to the governing board that fact, and such certificate shall become a part of the public record of the annexation proceeding and shall be deemed conclusive in the absence of fraud. If a notice is returned to the municipality by the postal service by the tenth day before the informational meeting, a copy of the notice shall be sent by certified mail, return receipt requested, at least seven days before the informational meeting. Failure to comply with the mailing requirement of this subsection shall not invalidate the annexation unless it is shown that the requirements were not substantially complied with.
- (4) If the governing board by resolution finds that the tax records are not adequate to identify the property owners within the area to be annexed after exercising reasonable efforts to locate the property owners, it may, in lieu of the mail procedure required by subdivision (3) of this subsection, post the notice at least 30 days prior to the date of the public informational meeting on all buildings, on such parcels, and in at least five other places within the area to be annexed as to those parcels where the property owner could not be so identified. In any case where notices are placed on property, the person placing the notice shall certify that fact to the governing board.
- (e) Action Prior to Informational Meeting. – At least 30 days before the date of the public informational meeting, the municipal governing board shall do all of the following:

- (1) Approve the report provided for in G.S. 160A-58.53.
- (2) Prepare a summary of the approved report for public distribution.
- (3) Post in the office of the clerk all of the following:
 - a. The approved report provided for in G.S. 160A-58.53.
 - b. The summary of the approved report.
 - c. A legible map of the area to be annexed.
 - d. The list of the property owners, and associated mailing addresses, in the area to be annexed that the municipality has identified and mailed notice.
 - e. Information for property owners on how to request to become a customer of the water service or sewer service and all forms to request that service.
- (4) If the municipality has a Web site, post on that Web site all of the information under this section together with any forms to apply for water and sewer service.
- (5) Prepare a summary of the opportunity to vote in the referendum and available substantive statutory remedies for ~~denying and~~ appealing the annexation for public distribution.

(f) Public Informational Meeting. – At the public informational meeting, a representative of the municipality shall first make an explanation of the report required in G.S. 160A-58.53 and an explanation of the provision of major municipal services. The explanation of the provision of services shall include how to request water service or sewer service to individual lots, the average cost of a residential connection to the water and sewer system, and the opportunity for installation of a residential connection under G.S. 160A-58.56. A summary of the annexation process with time lines, a summary of opportunity to vote in the referendum and available statutory remedies for ~~denying and~~ appealing the annexation, an explanation of the provision of services, and information for requesting water service or sewer service to individual lots and any forms to so request shall also be distributed at the public informational meeting. Following such explanation, all property owners and residents of the area proposed to be annexed as described in the notice of public informational meeting and hearing, and all residents of the municipality shall be given the opportunity to ask questions and receive answers regarding the proposed annexation.

(g) Public Hearing. – At the public hearing, a representative of the municipality shall first make an explanation of the report required in G.S. 160A-58.53. Following such explanation, all property owners and residents of the area proposed to be annexed as described in the notice of public informational meeting and hearing, and all residents of the municipality, shall be given an opportunity to be heard.

(h) The municipal governing board shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by G.S. 160A-58.53 to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of G.S. 160A-58.53. At any regular or special meeting held no sooner than the tenth day following the ~~public hearing and not later than 90 days following the public hearing,~~ certification of the election held under G.S. 160A-58.64, the governing board shall have authority to adopt an ordinance, subject to subsection (i) of this section, extending the corporate limits of the municipality to include all, or part, of the area described in the notice of public hearing which the governing board has concluded should be annexed. The annexation ordinance shall:

- (1) Contain specific findings showing that the area to be annexed meets the requirements of G.S. 160A-58.54.
- (2) Describe the external boundaries of the area to be annexed by metes and bounds.

- (3) Include a statement of the intent of the municipality to provide services to the area being annexed as set forth in the report required by G.S. 160A-58.53 and a time line for the provision of those services.
 - (4) Contain a specific finding that on the effective date of annexation, the municipality will have funds appropriated in sufficient amount to finance construction of any water and sewer lines stated in the report required by G.S. 160A-58.53 to extend the water and sewer services into the area to be annexed, or that on the effective date of annexation the municipality will have authority to issue bonds in an amount sufficient to finance such construction. If authority to issue such bonds shall be secured from the electorate of the municipality prior to the effective date of annexation, then the effective date of annexation shall be no earlier than the day following the statement of the successful result of the bond election.
 - (5) Fix the effective date for annexation as June 30 next following the adoption of the ordinance or the second June 30 following adoption of the ordinance, but not before the completion of the water and sewer request ~~and petition to deny and~~ appeal periods are complete.
 - (6) Together, with the list of the property owners of parcels within the area described in the annexation ordinance to which a notice was mailed under subsection (d) of this section, be delivered within five business days to the tax assessor and the board of elections of the county in which a majority of the municipality lies.
 - (7) ~~Be summarized, and sent in accordance with subsection (i) of this section, to the list of the property owners within the area described in the annexation ordinance to which a notice was mailed under subsection (d) of this section together with a blank petition form, preprinted with name and address of the property owner.~~
 - (8) If a public body has a Web site, conspicuously post ~~a copy of the petition to deny annexation ordinance that a property owner in the real property located within the area described in the annexation ordinance may download, complete, and return to the county board of elections in accordance with subsection (i) of this section.~~ notice of the referendum until after the certification of the election.
- (i) ~~Petition-Referendum Vote to Deny on~~ Annexation Ordinance. – The following procedures ~~in G.S. 160A-58.64 shall apply to this subsection:~~
- (1) ~~Upon receipt of the resolution of intent and a list of property owners of the real property located within the area, the county tax assessor shall prepare a list of the real property parcels within the area, and forward it to the board of elections in the county where a majority of the parcels proposed for annexation are located. The board of elections shall prepare petitions for property owners of the real property located within the area described in the resolution of intent to sign opposing the annexation ordinance.~~
 - (2) ~~A petition shall include the names of the property owners of the parcel of real property listed individually, a signature line for each owner, and a statement that the person signing is petitioning to deny the annexation.~~
 - (3) ~~The board of elections shall mail a petition to the address of record for those real property owners within five business days of receipt from the county tax assessor of the list.~~
 - (4) ~~The board of elections shall provide two methods by which property owners of the real property located within the area described in the annexation ordinance may sign a petition form prepared by the board of elections: (i) in person or (ii) by submitting the signed petition form by mail. The board of elections shall also accept signatures signed on a petition form prepared by~~

~~the board of elections, but collected by another, if that petition form is returned to the board of elections in a sealed container.~~

- ~~(5) If the signed petition is one that was mailed under subdivision (h)(7) of this section and the signer is not the same as the preprinted name on the form, the signed petition shall be notarized and accompanied by a copy of the legal authority for the signature of the person signing a petition.~~
- ~~(6) If a petition is returned as undeliverable to the board of elections, the board of elections shall send the petition return receipt requested. If the petition is returned again, the board of elections shall not include that property owner in the total number of eligible property owners.~~
- ~~(7) If there is a change in ownership of real property after the date of the resolution of consideration until 30 days after the date of the adoption of the annexation ordinance, the new owner of the real property shall be considered the eligible owner of real property.~~
- ~~(8) The board of elections shall accept signatures on the petition until 130 days after the adoption of the annexation ordinance.~~
- ~~(9) The determination of the results by the board of elections of the petition period shall be observed by three property owners from the area proposed for annexation, chosen by lot by the board of elections from among those who request to serve in this role, and three persons designated by the municipality. A majority of the property owners of a single parcel of real property must sign the petition before the board of elections may count that parcel as having submitted a petition to deny annexation.~~
- ~~(10) Within 10 business days after the close of the signature period, the board of elections shall certify to the municipal governing body the number of petitions signed by eligible property owners of the real property located within the area described in the annexation ordinance.~~
- ~~(11) If the board of elections delivers to the municipal governing board petitions signed by eligible property owners of at least sixty percent (60%) of the parcels located within the area described in the annexation ordinance as provided in this subsection, the annexation shall be terminated and the municipality may not adopt a resolution of consideration for the area described in the annexation ordinance for at least 36 months.~~
- ~~(12) This subsection shall not apply to any property owner of real property located within the area described in the annexation ordinance that is completely surrounded by the municipality's primary corporate limits.~~
- ~~(13) any annexation under this Part. The municipality shall reimburse the board or boards of elections the costs of the petition process referendum required under this subsection. G.S. 160A-58.64.~~

(j) Effect of Annexation Ordinance. – From and after the effective date of the annexation ordinance, the territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in such municipality and shall be entitled to the same privileges and benefits as other parts of such municipality.

(k) Reserved.

(l) Reserved.

(m) Simultaneous Annexation Proceedings. – If a municipality is considering the annexation of two or more areas which are all adjacent to the municipal boundary but are not adjacent to one another, it may undertake simultaneous proceedings under authority of this Part for the annexation of such areas.

(n) Remedies for Failure to Provide Services. – If, not earlier than 30 days after the effective date of annexation and not later than 15 months from the effective date of annexation, any property owner in the annexed territory shall believe that the municipality has not followed through providing services as set forth in the report adopted under G.S. 160A-58.53 and

subsection (e) of this section, the property owner may apply for a writ of mandamus. Relief may be granted by the judge of superior court if the municipality has not provided the services set forth in its plan submitted under the provisions of G.S. 160A-58.53(3)a. on substantially the same basis and in the same manner as such services were provided within the rest of the municipality prior to the effective date of annexation and those services are still being provided on substantially the same basis and in the same manner within the original corporate limits of the municipality. If a writ is issued, costs in the action, including reasonable attorneys' fees for such aggrieved property owner, shall be charged to the municipality.

(o) Reports to the Local Government Commission. – The municipality shall report to the Local Government Commission as follows:

- (1) As to whether police protection, fire protection, solid waste services, and street maintenance services were provided in accordance with G.S. 160A-58.53(3)a., within 30 days after the effective date of the annexation. Such report shall be filed no more than 30 days following the expiration of the 30-day period. If the Local Government Commission determines that the municipality failed to deliver police protection, fire protection, solid waste services, or street maintenance services as provided for in G.S. 160A-58.53(3)a. within 30 days after the effective date of the annexation, the Local Government Commission shall notify the municipality that the municipality may not count any of the residents as part of the population of the municipality for the purpose of receiving any State, federal, or county dollars distributed based on population until all of the services are provided.
- (2) As to whether the extension of water and sewer lines was completed within the time period specified in G.S. 160A-58.53(3), within six months after the effective date of the annexation ordinance, and again within three and one-half years of the effective date of the annexation ordinance or upon the completion of the installation, whichever occurs first. If the municipality failed to deliver either water or sewer services, or both, as provided for in G.S. 160A-58.53(3)b. within three and one-half years after the effective date of the annexation, the municipality shall stop any other annexations in progress and may not begin any other annexation until the water and sewer services are provided. The municipality shall adopt a resolution of consideration to begin again any annexation that is stopped due to this subdivision."

SECTION 4. G.S. 160A-58.51(2) reads as rewritten:

- "(2) Eligible property owner. – A property owner who is eligible ~~to sign a petition to deny an annexation ordinance or a property owner who is eligible~~ to be notified of the opportunity to have water lines and sewer lines and connections installed at no cost to the property owner. ~~A property owner is eligible to sign a petition to deny an annexation ordinance if the property owner held a freehold interest in the property, determined as of the date of the resolution of consideration.~~ A property owner is eligible to be notified of the opportunity to have water lines and sewer lines and connections installed at no cost to the property owner if that property owner held a freehold interest in the real property to be annexed as of the date of the combined notice of public informational meeting and public hearing."

SECTION 5. G.S. 160A-60(a) reads as rewritten:

"(a) Within 60 days following the ~~close of the signature period under G.S. 160A-58.55(i),~~ adoption of the annexation ordinance, any property owner of real property located within the area described in the annexation ordinance who believes that property owner will suffer material injury by reason of the failure of the municipal governing board to comply with the procedure or to meet the requirements set forth in this Part as they apply to the

annexation may file a petition in the superior court of the county in which the municipality is located seeking review of the action of the governing board."

SECTION 6. This act becomes effective July 1, 2012, and applies to any annexation ordinance adopted under Part 7 of Article 4A of Chapter 160A of the General Statutes on or after that date.

In the General Assembly read three times and ratified this the 30th day of May, 2012.

Became law on the date it was ratified.

Session Law 2012-12

H.B. 843

AN ACT TO MODERNIZE THE NORTH CAROLINA EMERGENCY MANAGEMENT ACT AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

I. CHANGES TO CHAPTER 166A OF THE GENERAL STATUTES

SECTION 1.(a) G.S. 166A-6.1 is recodified as G.S. 166A-29 and the remainder of Article 1 of Chapter 166A is repealed.

SECTION 1.(b) Chapter 166A of the General Statutes is amended by adding a new Article to read:

"Article 1A.

"North Carolina Emergency Management Act.

"Part 1. General Provisions.

"§ 166A-19. Short title.

This Article may be cited as "North Carolina Emergency Management Act."

"§ 166A-19.1. Purposes.

The purposes of this Article are to set forth the authority and responsibility of the Governor, State agencies, and local governments in prevention of, preparation for, response to, and recovery from natural or man-made emergencies or hostile military or paramilitary action and to do the following:

- (1) Reduce vulnerability of people and property of this State to damage, injury, and loss of life and property.
- (2) Prepare for prompt and efficient rescue, care, and treatment of threatened or affected persons.
- (3) Provide for the rapid and orderly rehabilitation of persons and restoration of property.
- (4) Provide for cooperation and coordination of activities relating to emergency mitigation, preparedness, response, and recovery among agencies and officials of this State and with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with other private and quasi-official organizations.

"§ 166A-19.2. Limitations.

Nothing in this Article shall be construed to do any of the following:

- (1) Interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers may be requested to transmit or print public service messages furnishing information or instructions in connection with an emergency, disaster, or war.
- (2) Limit, modify, or abridge the authority of the Governor to declare martial law or exercise any other powers vested in the Governor under the North Carolina Constitution, statutes, or common law of this State independent of, or in conjunction with, any provisions of this Article.

"§ 166A-19.3. Definitions.

The following definitions apply in this Article:

- (1) Account. – The State Emergency Response Account established in G.S. 166A-19.42.
- (2) Chair of the board of county commissioners. – The chair of the board of county commissioners or, in case of the chair's absence or disability, the person authorized to act in the chair's stead. Unless the governing body of the county has specified who is to act in lieu of the chair with respect to a particular power or duty set out in this Article, this term shall mean the person generally authorized to act in lieu of the chair.
- (3) Disaster declaration. – A gubernatorial declaration that the impact or anticipated impact of an emergency constitutes a disaster of one of the types enumerated in G.S. 166A-19.21(b).
- (4) Division. – The Division of Emergency Management established in Subpart A of Part 5 of Article 13 of Chapter 143B of the General Statutes.
- (5) Eligible entity. – Any political subdivision. The term also includes an owner or operator of a private nonprofit utility that meets the eligibility criteria set out in this Article.
- (6) Emergency. – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, weather-related, or riot-related cause.
- (7) Emergency area. – The geographical area covered by a state of emergency.
- (8) Emergency management. – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type emergency, which includes the never-ending preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery.
- (9) Emergency management agency. – A State or local governmental agency charged with coordination of all emergency management activities for its jurisdiction.
- (10) Hazard risk management. – The systematic application of policies, practices, and resources to the identification, assessment, and control of risk associated with hazards affecting human health and safety and property. Hazard, risk, and cost-benefit analysis are used to support development of risk reduction options, program objectives, and prioritization of issues and resources.
- (11) Mayor. – The mayor or other chief executive official of a municipality or, in case of that person's absence or disability, the person authorized to act in that person's stead. Unless the governing body of the municipality has specified who is to act in lieu of the mayor with respect to a particular power or duty set out in this Article, the term shall mean the person generally authorized to act in lieu of the mayor.
- (12) Political subdivision. – Counties and incorporated cities, towns, and villages.
- (13) Preliminary damage assessment. – The initial estimate prepared by State, local, or federal emergency management workers used to determine the severity and magnitude of damage caused by an emergency.
- (14) Private nonprofit utility. – A utility that would be eligible for federal public assistance disaster funds pursuant to 44 C.F.R. Part 206.
- (15) Secretary. – The Secretary of the Department of Public Safety.
- (16) Stafford Act. – The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, 88 Stat. 143, codified generally at 42 U.S.C. § 5121, et seq., as amended.

- (17) State Acquisition and Relocation Fund. – State funding for supplemental grants to homeowners participating in a federal Hazard Mitigation Grant Program Acquisition and Relocation Program. These grants are used to acquire safe, decent, and sanitary housing by paying the difference between the cost of the home acquired under the federal Hazard Mitigation Grant Program Acquisition and Relocation Program and the cost of a comparable home located outside the 100-year floodplain.
- (18) State of emergency. – A finding and declaration by any of the following authorities that an emergency exists:
- a. The Governor, acting under the authority of G.S. 166A-19.20.
 - b. The General Assembly, acting under the authority of G.S. 166A-19.20.
 - c. The governing body of a municipality or the mayor of a municipality, acting under the authority of G.S. 166A-19.22.
 - d. The governing body of a county or the chair of the board of commissioners of a county, acting under the authority of G.S. 166A-19.22.

"Part 2. State Emergency Management.

"§ 166A-19.10. Powers of the Governor.

(a) State Emergency Management Program. – The State Emergency Management Program includes all aspects of preparations for, response to, recovery from, and mitigation against war or peacetime emergencies.

(b) Powers of the Governor. – The Governor is authorized and empowered to do the following:

- (1) To exercise general direction and control of the State Emergency Management Program and to be responsible for carrying out the provisions of this Article, other than those provisions that confer powers and duties exclusively on local governments.
- (2) To make, amend, or rescind the necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor herein, with due consideration of the policies of the federal government.
- (3) To delegate any authority vested in the Governor under this Article and to provide for the subdelegation of any such authority.
- (4) To cooperate and coordinate with the President and the heads of the departments and agencies of the federal government, and with other appropriate federal officers and agencies, and with the officers and agencies of other states and local units of government in matters pertaining to the emergency management of the State and nation.
- (5) To enter into agreements with the American National Red Cross, Salvation Army, Mennonite Disaster Service, and other disaster relief organizations.
- (6) To make, amend, or rescind mutual aid agreements in accordance with G.S. 166A-19.72.
- (7) To utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the State and of the political subdivisions thereof. The officers and personnel of all such departments, offices, and agencies are required to cooperate with and extend such services and facilities to the Governor upon request. This authority shall extend to a state of emergency declared pursuant to G.S. 166A-19.20, to the imminent threat of an emergency that will likely require an emergency to be declared pursuant to G.S. 166A-19.20, or to emergency management planning and training purposes.

- (8) To agree, when required to obtain federal assistance in debris removal, that the State will indemnify the federal government against any claim arising from the removal of the debris.
- (9) To sell, lend, lease, give, transfer, or deliver materials or perform services for emergency purposes on such terms and conditions as may be prescribed by any existing law, and to account to the State Treasurer for any funds received for such property.
- (10) In an emergency, or when requested by the governing body of a political subdivision in the State, to assume operational control over all or any part of the emergency management functions within this State.

"§ 166A-19.11. Powers of the Secretary of Public Safety.

The Secretary shall be responsible to the Governor for State emergency management activities. The Secretary shall have the following powers and duties as delegated by the Governor:

- (1) To activate the State and local plans applicable to the areas in question and to authorize and direct the deployment and use of any personnel and forces to which the plan or plans apply, and the use or distribution of any supplies, equipment, materials, and facilities available pursuant to this Article or any other provision of law.
- (2) To adopt the rules to implement those provisions of this Article that deal with matters other than those that are exclusively local.
- (3) To develop a system to produce a preliminary damage assessment from which the Secretary will recommend the appropriate level of disaster declaration to the Governor. The system shall, at a minimum, consider whether the damage involved and its effects are of such a severity and magnitude as to be beyond the response capabilities of the local government or political subdivision.
- (4) Additional authority, duties, and responsibilities as may be prescribed by the Governor. The Secretary may subdelegate his authority to the appropriate member of the Secretary's department.

"§ 166A-19.12. Powers of the Division of Emergency Management.

The Division of Emergency Management shall have the following powers and duties as delegated by the Governor and Secretary of Public Safety:

- (1) Coordination of the activities of all State agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and activating emergency management programs.
- (2) Preparation and maintenance of State plans for emergencies. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.
- (3) Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:
 - a. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
 - b. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
 - c. The procurement and allocation of immunizing agents and prophylactic antibiotics.
 - d. The allocation of the Strategic National Stockpile.
 - e. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.

- f. Immunization procedures.
 - g. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons.
- (4) Establishment of a voluntary model registry for use by political subdivisions in identifying functionally and medically fragile persons in need of assistance during an emergency. All records, data, information, correspondence, and communications relating to the registration of persons with special needs or of functionally and medically fragile persons obtained pursuant to this subdivision are confidential and are not a public record pursuant to G.S. 132-1 or any other applicable statute, except that this information shall be available to emergency response agencies, as determined by the local emergency management director. This information shall be used only for the purposes set forth in this subdivision.
 - (5) Promulgation of standards and requirements for local plans and programs consistent with federal and State laws and regulations, determination of eligibility for State financial assistance provided for in G.S. 166A-19.15, and provision of technical assistance to local governments. Standards and requirements for local plans and programs promulgated under this subdivision shall be reviewed by the Division at least biennially and updated as necessary.
 - (6) Development and presentation of training programs, including the Emergency Management Certification Program established under Article 5 of this Chapter, and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.
 - (7) Making of such studies and surveys of the resources in this State as may be necessary to ascertain the capabilities of the State for emergency management, maintaining data on these resources, and planning for the most efficient use thereof.
 - (8) Coordination of the use of any private facilities, services, and property.
 - (9) Preparation for issuance by the Governor of executive orders, declarations, and regulations as necessary or appropriate.
 - (10) Cooperation and maintenance of liaison with the other states, the federal government, and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency or war prevention, preparation, response, and recovery.
 - (11) Making recommendations, as appropriate, for zoning, building, and other land-use controls, and safety measures for securing mobile homes or other nonpermanent or semipermanent works designed to protect against or mitigate the effects of an emergency.
 - (12) Coordination of the use of existing means of communications and supplementing communications resources and integrating them into a comprehensive State or State-federal telecommunications or other communications system or network.
 - (13) Administration of federal and State grant funds provided for emergency management purposes, including those funds provided for planning and preparedness activities by emergency management agencies.
 - (14) Serving as the lead State agency for the coordination of information and resources for hazard risk management, which shall include the following responsibilities:

- a. Coordinating with other State agencies and county governments in conducting hazard risk analysis. To the extent another State agency has primary responsibility for the adoption of hazard mitigation standards, those standards shall be applied in conducting a hazard risk analysis.
 - b. Establishing and maintaining a hazard risk management information system and tools to display natural hazards and vulnerabilities and conducting risk assessment.
 - c. Acquiring and leveraging all natural hazard data generated or maintained by State agencies and county governments.
 - d. Acquiring and leveraging all vulnerability data generated or maintained by State agencies and county governments.
 - e. Maintaining a clearinghouse for methodologies and metrics for calculating and communicating hazard probability and loss estimation.
- (15) Utilizing and maintaining technology that enables efficient and effective communication and management of resources between political subdivisions, State agencies, and other governmental entities involved in emergency management activities.
 - (16) Establishing and operating a 24-hour Operations Center to serve as a single point of contact for local governments to report the occurrence of emergency and disaster events and to coordinate local and State response assets.
 - (17) Developing, maintaining, and implementing plans for response to any emergency occurring at a fixed nuclear power generating facility located in or near the borders of the State of North Carolina.
 - (18) Maintaining the State Emergency Operations Center as the facility to house the State Emergency Response Team whenever it is activated for disaster response.
 - (19) Serving as the agency responsible for the management of intrastate and interstate mutual aid planning, implementation, and resource procurement necessary for supporting emergency response and recovery.

"Part 3. Local Emergency Management.

"§ 166A-19.15. County and municipal emergency management.

(a) Governing Body of Counties Responsible for Emergency Management. – The governing body of each county is responsible for emergency management within the geographical limits of such county. All emergency management efforts within the county will be coordinated by the county, including activities of the municipalities within the county.

(b) Counties May Establish and Maintain Emergency Management Agencies. – The governing body of each county is hereby authorized to establish and maintain an emergency management agency for the purposes contained in G.S. 166A-19.1. The governing body of each county which establishes an emergency management agency pursuant to this authorization shall appoint a coordinator who will have a direct responsibility for the organization, administration, and operation of the county program and will be subject to the direction and guidance of such governing body. In the event that any county fails to establish an emergency management agency, and the Governor, in the Governor's discretion, determines that a need exists for such an emergency management agency, then the Governor is hereby empowered to establish an emergency management agency within that county.

(c) Municipalities May Establish and Maintain Emergency Management Agencies. – All incorporated municipalities are authorized to establish and maintain emergency management agencies subject to coordination by the county.

(d) Joint Agencies Authorized. – Counties and incorporated municipalities are authorized to form joint emergency management agencies composed of a county and one or

more municipalities within the county's borders, between two or more counties, or between two or more counties and one or more municipalities within the borders of those counties.

(e) Local Appropriations Authorized. – Each county and incorporated municipality in this State is authorized to make appropriations for the purposes of this Article and to fund them by levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues, use of which is not otherwise restricted by law.

(f) Additional Powers. – In carrying out the provisions of this Article each political subdivision is authorized to do the following:

- (1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes and to provide for the health and safety of persons and property, including emergency assistance, consistent with this Article.
- (2) To direct and coordinate the development of emergency management plans and programs in accordance with the policies and standards set by the Division, consistent with federal and State laws and regulations.
- (3) To assign and make available all available resources for emergency management purposes for service within or outside of the physical limits of the subdivision.
- (4) To delegate powers in a local state of emergency declared pursuant to G.S. 166A-19.22.
- (5) To coordinate the voluntary registration of functionally and medically fragile persons in need of assistance during an emergency either through a registry established by this subdivision or by the State. All records, data, information, correspondence, and communications relating to the registration of persons with special needs or of functionally and medically fragile persons obtained pursuant to this subdivision are confidential and are not a public record pursuant to G.S. 132-1 or any other applicable statute, except that this information shall be available to emergency response agencies, as determined by the local emergency management director. This information shall be used only for the purposes set forth in this subdivision.

(g) County Eligibility for State and Federal Financial Assistance. – Each county which establishes an emergency management agency pursuant to State standards and which meets requirements for local plans and programs may be eligible to receive State and federal financial assistance, including State and federal funding appropriated for emergency management planning and preparedness, and for the maintenance and operation of a county emergency management program. Such financial assistance is subject to an appropriation being made for this purpose. Where the appropriation does not allocate appropriated funds among counties, the amount allocated to each county shall be determined annually by the Division. The size of this allocation shall be based in part on the degree to which local plans and programs meet State standards and requirements promulgated by the Division, including those relating to professional competencies of local emergency management personnel. However, in making an allocation determination, the Division shall, where appropriate, take into account the fact that a particular county may lack sufficient resources to meet the standards and requirements promulgated by the Division.

"Part 4. Declarations of State of Emergency.

"§ 166A-19.20. Gubernatorial or legislative declaration of state of emergency.

(a) Declaration. – A state of emergency may be declared by the Governor or by a resolution of the General Assembly, if either of these finds that an emergency exists.

(b) Emergency Area. – An executive order or resolution declaring a state of emergency shall include a definition of the area constituting the emergency area.

(c) Expiration of States of Emergency. – A state of emergency declared pursuant to this section shall expire when it is rescinded by the authority that issued it.

(d) Exercise of Powers Not Contingent on Declaration of Disaster Type. – Once a state of emergency has been declared pursuant to this section, the fact that a declaration of disaster type has not been issued shall not preclude the exercise of powers otherwise conferred during a state of emergency.

"§ 166A-19.21. Gubernatorial disaster declaration.

(a) Preliminary Damage Assessment. – When a state of emergency is declared pursuant to G.S. 166A-19.20, the Secretary shall provide the Governor and the General Assembly with a preliminary damage assessment as soon as the assessment is available.

(b) Declaration of Disaster. – Upon receipt of a preliminary damage assessment, the Governor is authorized to issue a disaster declaration declaring the impact or anticipated impact of the emergency to constitute a disaster of one of the following types:

(1) Type I disaster. – A Type I disaster may be declared by the Governor prior to, and independently of, any action taken by the Small Business Administration, the Federal Emergency Management Agency, or any other federal agency, if all of the following criteria are met:

a. A local state of emergency has been declared pursuant to G.S. 166A-19.22 and a written copy of the declaration has been forwarded to the Governor.

b. The preliminary damage assessment meets or exceeds the criteria established for the Small Business Administration Disaster Loan Program pursuant to 13 C.F.R. Part 123 or meets or exceeds the State infrastructure criteria set out in G.S. 166A-19.41(b)(2)a.

c. A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

(2) Type II disaster. – A Type II disaster may be declared if the President of the United States has issued a major disaster declaration pursuant to the Stafford Act. The Governor may request federal disaster assistance under the Stafford Act without making a Type II disaster declaration.

(3) Type III disaster. – A Type III disaster may be declared if the President of the United States has issued a major disaster declaration under the Stafford Act and either of the following is true:

a. The preliminary damage assessment indicates that the extent of damage is reasonably expected to meet the threshold established for an increased federal share of disaster assistance under applicable federal law and regulations.

b. The preliminary damage assessment prompts the Governor to call a special session of the General Assembly to establish programs to meet the unmet needs of individuals, businesses, or political subdivisions affected by the emergency.

(c) Expiration of Disaster Declarations. –

(1) Expiration of Type I disaster declarations. – A Type I disaster declaration shall expire 30 days after its issuance 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.

(2) Expiration of Type II disaster declarations. – A Type II disaster declaration shall expire six months after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of three months each, not to exceed a total of 12 months 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 II disaster declaration.

- (3) Expiration of Type III disaster declarations. – A Type III disaster declaration shall expire 12 months after its issuance unless renewed by the General Assembly.
- (4) Expiration of disaster declarations declared prior to July 1, 2001. – Any state of disaster declared or proclaimed before July 1, 2001, irrespective of type, shall terminate by a declaration of the Governor or resolution of the General Assembly. A declaration or resolution declaring or terminating a state of disaster shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, promptly filed with the Secretary, the Secretary of State, and the clerks of superior court in the area to which it applies.

"§ 166A-19.22. Municipal or county declaration of state of emergency.

(a) Declaration. – A state of emergency may be declared by the governing body of a municipality or county, if either of these finds that an emergency exists. Authority to declare a state of emergency under this section may also be delegated by ordinance to the mayor of a municipality or to the chair of the board of county commissioners of a county.

(b) Emergency Area. – The emergency area shall be determined in accordance with the following:

- (1) Unless another subdivision of this subsection is applicable, the emergency area shall not exceed the area over which the municipality or county has jurisdiction to enact general police-power ordinances. The governing body declaring the state of emergency may declare that the emergency area includes part or all of the governing body's jurisdiction. Unless the governing body declaring the state of emergency provides otherwise, the emergency area includes this entire jurisdiction, subject to the limitations contained in the other subdivisions in this subsection.
- (2) The emergency area of a state of emergency declared by a county shall not include any area within the corporate limits of any municipality, or within any area of the county over which a municipality has jurisdiction to enact general police-power ordinances, unless the municipality's governing body or mayor consents to or requests the state of emergency's application. Such an extension may be with respect to one or more of the prohibitions and restrictions imposed in that county pursuant to the authority granted in G.S. 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section.
- (3) The board of commissioners or chair of the board of commissioners of any county who has been requested to do so by a mayor may by declaration extend the emergency area of a state of emergency declared by a municipality to any area within the county in which the board or chair determines it to be necessary to assist in the controlling of the emergency within the municipality. The extension may be with respect to one or more of the prohibitions and restrictions imposed in that mayor's municipality pursuant to the authority granted in G.S. 166A-19.31 and need not be with respect to all prohibitions and restrictions authorized by that section. Extension of the emergency area pursuant to this subdivision shall be subject to the following additional limitations:

- a. The extension of the emergency area shall not include any area within the corporate limits of a municipality, or within any area of the county over which a municipality has jurisdiction to enact general police-power ordinances, unless the mayor or governing body of that other municipality consents to its application.
- b. A chair of a board of county commissioners extending the emergency area under the authority of this subdivision shall take reasonable steps to give notice of its terms to those likely to be affected.
- c. The chair of the board of commissioners shall declare the termination of any prohibitions and restrictions extended pursuant to this subdivision upon the earlier of the following:
 - 1. The chair's determination that they are no longer necessary.
 - 2. The determination of the board of county commissioners that they are no longer necessary.
 - 3. The termination of the prohibitions and restrictions within the municipality.
- d. The powers authorized under this subdivision may be exercised whether or not the county has enacted ordinances under the authority of G.S. 166A-19.31. Exercise of this authority shall not preclude the imposition of prohibitions and restrictions under any ordinances enacted by the county under the authority of G.S. 166A-19.31.

(c) Expiration of States of Emergency. – Unless an ordinance adopted pursuant to G.S. 166A-19.31 provides otherwise, a state of emergency declared pursuant to this section shall expire when it is terminated by the official or governing body that declared it.

(d) Effect of Declaration. – The declaration of a state of emergency pursuant to this section shall activate the local ordinances authorized in G.S. 166A-19.31 and any and all applicable local plans, mutual assistance compacts, and agreements and shall also authorize the furnishing of assistance thereunder.

"§ 166A-19.23. Excessive pricing prohibitions.

A declaration issued pursuant to this Article shall trigger the prohibitions against excessive pricing during states of disaster, states of emergency, or abnormal market disruptions pursuant to G.S. 75-37 and G.S. 75-38.

"Part 5. Additional Powers During States of Emergency.

"§ 166A-19.30. Additional powers of the Governor during state of emergency.

(a) In addition to any other powers conferred upon the Governor by law, during a gubernatorially or legislatively declared state of emergency, the Governor shall have the following powers:

- (1) To utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services.
- (2) To take such action and give such directions to State and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article and with the orders, rules, and regulations made pursuant thereto.
- (3) To take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety.
- (4) Subject to the provisions of the State Constitution to relieve any public official having administrative responsibilities under this Article of such responsibilities for willful failure to obey an order, rule, or regulation adopted pursuant to this Article.

(b) During a gubernatorially or legislatively declared state of emergency, with the concurrence of the Council of State, the Governor has the following powers:

- (1) To direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, to prescribe routes, modes of transportation, and destinations in connection with evacuation; and to control ingress and egress of an emergency area, the movement of persons within the area, and the occupancy of premises therein.
- (2) To establish a system of economic controls over all resources, materials, and services to include food, clothing, shelter, fuel, rents, and wages, including the administration and enforcement of any rationing, price freezing, or similar federal order or regulation.
- (3) To regulate and control the flow of vehicular and pedestrian traffic, the congregation of persons in public places or buildings, lights and noises of all kinds, and the maintenance, extension, and operation of public utility and transportation services and facilities.
- (4) To waive a provision of any regulation or ordinance of a State agency or a political subdivision which restricts the immediate relief of human suffering.
- (5) To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population.
- (6) To appoint or remove an executive head of any State agency or institution, the executive head of which is regularly selected by a State board or commission.
 - a. Such an acting executive head will serve during the following:
 1. The physical or mental incapacity of the regular office holder, as determined by the Governor after such inquiry as the Governor deems appropriate.
 2. The continued absence of the regular holder of the office.
 3. A vacancy in the office pending selection of a new executive head.
 - b. An acting executive head of a State agency or institution appointed in accordance with this subdivision may perform any act and exercise any power which a regularly selected holder of such office could lawfully perform and exercise.
 - c. All powers granted to an acting executive head of a State agency or institution under this section shall expire immediately:
 1. Upon the termination of the incapacity as determined by the Governor of the officer in whose stead the Governor acts;
 2. Upon the return of the officer in whose stead the Governor acts; or
 3. Upon the selection and qualification of a person to serve for the unexpired term, or the selection of an acting executive head of the agency or institution by the board or commission authorized to make such selection, and the person's qualification.
- (7) To procure, by purchase, condemnation, seizure, or by other means to construct, lease, transport, store, maintain, renovate, or distribute materials and facilities for emergency management without regard to the limitation of any existing law.

(c) In addition to any other powers conferred upon the Governor by law, during a gubernatorially or legislatively declared state of emergency, if the Governor determines that local control of the emergency is insufficient to assure adequate protection for lives and

property because (i) needed control cannot be imposed locally because local authorities responsible for preservation of the public peace have not enacted appropriate ordinances or issued appropriate declarations as authorized by G.S. 166A-19.31; (ii) local authorities have not taken implementing steps under such ordinances or declarations, if enacted or declared, for effectual control of the emergency that has arisen; (iii) the area in which the emergency exists has spread across local jurisdictional boundaries, and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; or (iv) the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it, the Governor has the following powers:

- (1) To impose by declaration prohibitions and restrictions in the emergency area. These prohibitions and restrictions may, in the Governor's discretion, as appropriate to deal with the emergency, impose any of the types of prohibitions and restrictions enumerated in G.S. 166A-19.31(b), and may amend or rescind any prohibitions and restrictions imposed by local authorities. Prohibitions and restrictions imposed pursuant to this subdivision shall take effect in accordance with the provisions of G.S. 166A-19.31(d) and shall expire upon the earliest occurrence of either of the following: (i) the prohibition or restriction is terminated by the Governor or (ii) the state of emergency is terminated.
- (2) Give to all participating State and local agencies and officers such directions as may be necessary to assure coordination among them. These directions may include the designation of the officer or agency responsible for directing and controlling the participation of all public agencies and officers in the emergency. The Governor may make this designation in any manner which, in the Governor's discretion, seems most likely to be effective. Any law enforcement officer participating in the control of a state of emergency in which the Governor is exercising control under this section shall have the same power and authority as a sheriff throughout the territory to which the law enforcement officer is assigned.

(d) Violation. – Any person who violates any provision of a declaration or executive order issued pursuant to this section shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A.

"§ 166A-19.31. Power of municipalities and counties to enact ordinances to deal with states of emergency.

(a) Authority to Enact Prohibitions and Restrictions. – The governing body of any municipality or county may enact ordinances designed to permit the imposition of prohibitions and restrictions within the emergency area during a state of emergency declared pursuant to G.S. 166A-19.22. Authority to impose by declaration prohibitions and restrictions under this section, and to impose those prohibitions and restrictions at a particular time as appropriate, may be delegated by ordinance to the mayor of a municipality or to the chair of the board of county commissioners of a county.

(b) Type of Prohibitions and Restrictions Authorized. – The ordinances authorized by this section may permit prohibitions and restrictions:

- (1) Of movements of people in public places, including imposing a curfew; directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body's jurisdiction; prescribing routes, modes of transportation, and destinations in connection with evacuation; and controlling ingress and egress of an emergency area, and the movement of persons within the area.
- (2) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate.

- (3) Upon the possession, transportation, sale, purchase, and consumption of alcoholic beverages.
- (4) Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, except that this subdivision does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this subdivision, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1. As used in this subdivision, the term "firearm" has the same meaning as it does under G.S. 14-409.39(2).
- (5) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

The ordinances authorized by this section need not require or provide for the imposition of all of the types of prohibitions or restrictions, or any particular prohibition or restriction, authorized by this section during an emergency but may instead authorize the official or officials who impose those prohibitions or restrictions to determine and impose the prohibitions or restrictions deemed necessary or suitable to a particular state of emergency.

(c) When Ordinances Take Effect. – Notwithstanding any other provision of law, whether general or special, relating to the promulgation or publication of ordinances by any municipality or county, upon the declaration of a state of emergency by the mayor or chair of the board of county commissioners within the municipality or the county, any ordinance enacted under the authority of this section shall take effect immediately unless the ordinance sets a later time. If the effect of this section is to cause an ordinance to go into effect sooner than it otherwise could under the law applicable to the municipality or county, the mayor or chair of the board of county commissioners, as the case may be, shall take steps to cause reports of the substance of the ordinance to be disseminated in a fashion that its substance will likely be communicated to the public in general, or to those who may be particularly affected by the ordinance if it does not affect the public generally. As soon as practicable thereafter, appropriate distribution or publication of the full text of any such ordinance shall be made.

(d) When Prohibitions and Restrictions Take Effect. – All prohibitions and restrictions imposed by declaration pursuant to ordinances adopted under this section shall take effect in the emergency area immediately upon publication of the declaration unless the declaration sets a later time. For the purpose of requiring compliance, publication may consist of reports of the substance of the prohibitions and restrictions in the mass communications media serving the emergency area or other effective methods of disseminating the necessary information quickly. As soon as practicable, however, appropriate distribution of the full text of any declaration shall be made. This subsection shall not be governed by the provisions of G.S. 1-597.

(e) Expiration of Prohibitions and Restrictions. – Prohibitions and restrictions imposed pursuant to this section shall expire upon the earliest occurrence of any of the following:

- (1) The prohibition or restriction is terminated by the official or entity that imposed the prohibition or restriction.
- (2) The state of emergency terminates.

(f) Intent to Supplement Other Authority. – This section is intended to supplement and confirm the powers conferred by G.S. 153A-121(a), G.S. 160A-174(a), and all other general and local laws authorizing municipalities and counties to enact ordinances for the protection of the public health and safety in times of riot or other grave civil disturbance or emergency.

(g) Previously Enacted Ordinances Remain in Effect. – Any ordinance of a type authorized by this section promulgated prior to October 1, 2012, if otherwise valid, continue in full force and effect without reenactment.

(h) Violation. – Any person who violates any provision of an ordinance or a declaration enacted or declared pursuant to this section shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A.

"Part 6. Funding of Emergency Preparedness and Response."§ 166A-19.40. Use of contingency and emergency funds.

(a) Use of Funds for Relief and Assistance. – The Governor may use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of an emergency and may reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of the emergency so requires and the contingency and emergency funds are insufficient or inappropriate.

(b) Use of Funds for National Guard Training. – In preparation for a state of emergency, with the concurrence of the Council of State, the Governor may use contingency and emergency funds as necessary and appropriate for National Guard training in preparation for emergencies.

"§ 166A-19.41. State emergency assistance funds.

(a) Governor May Make Funds Available for Emergency Assistance. – In the event of a gubernatorially or legislatively declared state of emergency, the Governor may make State funds available for emergency assistance as authorized by this section. Any State funds made available by the Governor for emergency assistance may be administered through State emergency assistance programs which may be established by the Governor upon the declaration of a state of emergency. It is the intent of the General Assembly in authorizing the Governor to make State funds available for emergency assistance and in authorizing the Governor to establish State emergency assistance programs to provide State assistance for recovery from those emergencies for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the emergency area.

(b) Emergency Assistance in a Type I Disaster. – In the event that a Type I disaster is declared, the Governor may make State funds available for emergency assistance in the emergency area in the form of individual assistance and public assistance as provided in this subsection.

- (1) Individual assistance. – State emergency assistance in the form of grants to individuals and families may be made available when damage meets or exceeds the criteria set out in 13 C.F.R. Part 123 for the Small Business Administration Disaster Loan Program. Individual assistance grants shall include benefits comparable to those provided by the Stafford Act and may be provided for the following:
 - a. Provision of temporary housing and rental assistance.
 - b. Repair or replacement of dwellings. Grants for repair or replacement of housing may include amounts necessary to locate the individual or family in safe, decent, and sanitary housing.
 - c. Replacement of personal property (including clothing, tools, and equipment).
 - d. Repair or replacement of privately owned vehicles.
 - e. Medical or dental expenses.
 - f. Funeral or burial expenses resulting from the emergency.
 - g. Funding for the cost of the first year's flood insurance premium to meet the requirements of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. § 4001, et seq.
- (2) Public assistance. – State emergency assistance in the form of public assistance grants may be made available to eligible entities located within the emergency area on the following terms and conditions:
 - a. Eligible entities shall meet the following qualifications:

1. The eligible entity suffers a minimum of ten thousand dollars (\$10,000) in uninsurable losses.
 2. The eligible entity suffers uninsurable losses in an amount equal to or exceeding one percent (1%) of the annual operating budget.
 3. For a state of emergency declared pursuant to G.S. 166A-19.20(a) after the deadline established by the Federal Emergency Management Agency pursuant to the Disaster Mitigation Act of 2002, P.L. 106-390, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act.
 4. For a state of emergency declared pursuant to G.S. 166A-19.20(a), after August 1, 2002, the eligible entity shall be participating in the National Flood Insurance Program in order to receive public assistance for flooding damage.
- b. Eligible entities shall be required to provide non-State matching funds equal to twenty-five percent (25%) of the eligible costs of the public assistance grant.
- c. An eligible entity that receives a public assistance grant pursuant to this subsection may use the grant for the following purposes only:
1. Debris clearance.
 2. Emergency protective measures.
 3. Roads and bridges.
 4. Crisis counseling.
 5. Assistance with public transportation needs.
- (c) Emergency Assistance in a Type II Disaster. – If a Type II disaster is declared, the Governor may make State funds available for emergency assistance in the emergency area in the form of the following types of grants:
- (1) State Acquisition and Relocation Funds.
 - (2) Supplemental repair and replacement housing grants available to individuals or families in an amount necessary to locate the individual or family in safe, decent, and sanitary housing, not to exceed twenty-five thousand dollars (\$25,000) per family.
- (d) Emergency Assistance in a Type III Disaster. – If a Type III disaster is declared, the Governor may make State funds available for emergency assistance in the emergency area in the form of the following types of grants:
- (1) State Acquisition and Relocation Funds.
 - (2) Supplemental repair and replacement housing grants available to individuals or families in an amount necessary to locate the individual or family in safe, decent, and sanitary housing, not to exceed twenty-five thousand dollars (\$25,000) per family.
 - (3) Any programs authorized by the General Assembly.
- "§ 166A-19.42. State Emergency Response Account.**
- (a) Account Established. – There is established a State Emergency Response Account as a reserve in the General Fund. Any funds appropriated to the Account shall remain available for expenditure as provided by this section, unless directed otherwise by the General Assembly.
- (b) Use of Funds. – The Governor may spend funds from the Account for the following purposes:
- (1) To cover the start-up costs of State Emergency Response Team operations for an emergency that poses an imminent threat of a Type I, Type II, or Type III disaster.

- (2) To cover the cost of first responders to a Type I, Type II, or Type III disaster and any related supplies and equipment needed by first responders that are not provided for under subdivision (1) of this subsection.

All other types of emergency assistance authorized by this Part shall continue to be financed by the funds made available under G.S. 166A-19.41.

(c) Reporting Requirement. – The Governor shall report to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and House of Representatives on any expenditures from the State Emergency Response Account no later than 30 days after making the expenditure. The report shall include a description of the emergency and type of action taken.

"Part 7. Immunity and Liability.

"§ 166A-19.60. Immunity and exemption.

(a) Generally. – All functions hereunder and all other activities relating to emergency management as provided for in this Chapter or elsewhere in the General Statutes 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, 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.

(b) Immunity. – 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 emergency declared by the Governor or General Assembly pursuant to this Article, and the services are provided under the direction and control of the Secretary pursuant to G.S. 166A-19.10, 166A-19.11, 166A-19.12, 166A-19.20, 166A-19.30, and 143B-602, or the Governor.
 - b. Emergency management services are provided during a state of emergency declared pursuant to G.S. 166A-19.22, and the services are provided under the direction and control of the governing body of a municipality or county under G.S. 166A-19.31, or the chair of a board of county commissioners under G.S. 166A-19.22(b)(3).
 - c. The firm, partnership, association, or corporation is engaged in planning, preparation, training, or exercises with the Division, the Division of Public Health, or the governing body of each county or municipality under G.S. 166A-19.15 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 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.

(c) No Effect on Benefits. – 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.

(d) License Requirements Suspended. – 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 emergency.

(e) Definition of Emergency Management Worker. – 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.

(f) Powers of Individuals Operating Pursuant to Mutual Aid Agreements. – 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.

"§ 166A-19.61. No private liability.

Any person, firm, or corporation owning or controlling real or personal property who, voluntarily or involuntarily, knowingly or unknowingly, with or without compensation, grants a license or privilege or otherwise permits or allows the designation or use of the whole or any part or parts of such real or personal property for the purpose of sheltering, protecting, safeguarding, or aiding in any way persons shall, together with his successors in interest, if any, not be civilly liable for the death of or injury to any person or the loss of or damage to the property of any persons where such death, injury, loss, or damage resulted from, through, or because of the use of the said real or personal property for any of the above purposes.

"§ 166A-19.62. Civil liability of persons who willfully ignore a warning in an emergency.

In an emergency, a person who willfully ignores a warning regarding personal safety issued by a federal, State, or local law enforcement agency, emergency management agency, or other governmental agency responsible for emergency management under this Article is civilly liable for the cost of a rescue effort to any governmental agency or nonprofit agency cooperating with a governmental agency conducting a rescue on the endangered person's behalf if all of the following are true:

- (1) The person ignores the warning and (i) engages in an activity or course of action that a reasonable person would not pursue or (ii) fails to take a course of action that a reasonable person would pursue.
- (2) As a result of ignoring the warning, the person places himself or herself or another in danger.
- (3) A governmental rescue effort is undertaken on the endangered person's behalf.

"Part 8. Miscellaneous Provisions.**"§ 166A-19.70. Ensuring availability of emergency supplies and utility services.**

(a) Executive Order. – In addition to any other powers conferred on the Governor by law, whenever a curfew has been imposed, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that persons transporting essentials in commerce to the curfew area, or assisting in ensuring their availability, and persons assisting in restoring utility services, be allowed to enter or remain in areas from which they would otherwise be excluded for the limited purpose of delivering the essentials, assisting in ensuring their availability, or assisting in restoring utility services.

(b) Maximum Hours of Service Waiver. – As part of an executive order issued pursuant to subsection (a) of this section, or independently of such an order, the Governor may declare by executive order that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service prescribed by the Department of Public Safety pursuant to G.S. 20-381 and similar rules be waived for persons transporting essentials or assisting in the restoration of utility services.

(c) Certification System. – The Secretary shall develop a system pursuant to which a person who transports essentials in commerce, or assists in ensuring their availability, and persons who assist in the restoring of utility services can be certified as such. The certification system shall allow for both preemergency declaration and postemergency declaration certification and may include an annually renewable precertification. The Secretary shall only allow those who routinely transport or distribute essentials or assist in the restoring of utility services to be certified. A certification of the employer shall constitute a certification of the employer's employees. The Secretary shall create an easily recognizable indicium of certification in order to assist local officials' efforts to determine which persons have received certification by the system established under this subsection.

(d) Presence in Curfew Area Permitted. – Notwithstanding the existence of any curfew, a person who is certified pursuant to the system established under subsection (c) of this section shall be allowed to enter or remain in the curfew area for the limited purpose of delivering or assisting in the distribution of essentials or assisting in the restoration of utility services and shall be allowed to provide service that exceeds otherwise applicable hours of service maximums, to the extent authorized by an executive order executed pursuant to subsection (a) of this section. Nothing in this section prohibits law enforcement or other local officials from specifying the permissible route of ingress or egress for persons with certifications.

(e) Abnormal Market Disruptions with Respect to Petroleum. – If the Governor declares the existence of an abnormal market disruption with respect to petroleum pursuant to G.S. 75-38(f), the Governor shall contemporaneously seek all applicable waivers under the federal Clean Air Act, 42 U.S.C. § 7401, et seq., and any other applicable federal law to facilitate the transportation of fuel within this State in order to address or prevent a fuel supply emergency in this State. Waiver requests shall be directed to the appropriate federal agencies and shall seek waivers of the following:

- (1) The Reformulated Gasoline requirements throughout the State.
- (2) The Federal and State Implementation Plan summertime gasoline requirements (low RVP) throughout the State.
- (3) Any other waiver that will, if obtained, facilitate the transportation of fuel within this State.

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

- (1) Curfew. – Any restriction on ingress and egress to the emergency area of a state of emergency or any restriction on the movement of persons within such an area.
- (2) Curfew area. – The area that is subject to a curfew.
- (3) Essentials. – Any goods that are consumed or used as a direct result of an emergency or which are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being of persons or their property. The

Secretary shall determine what goods constitute essentials for purposes of this section.

"§ 166A-19.71. Accept services, gifts, grants, and loans.

Whenever the federal government or any agency or officer thereof or of any person, firm, or corporation shall offer to the State, or through the State to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for emergency management purposes, the State acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its governing body, may accept such offer. Upon such acceptance the Governor of the State or governing body of such political subdivision may authorize any officer of the State or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the State or of such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

"§ 166A-19.72. Establishment of mutual aid agreements.

(a) Governor Authorized to Enter Agreements with Other States and Federal Government. – The Governor may establish mutual aid agreements with other states and with the federal government provided that any special agreements so negotiated are within the Governor's authority.

(b) Governor Authorized to Enter Agreements with Political Subdivisions. – The Governor may establish mutual aid agreements with political subdivisions in the State with the concurrence of the subdivision's governing body.

(c) Political Subdivisions Authorized to Enter Agreements with Other Political Subdivisions. – The chief executive of each political subdivision, with the concurrence of the subdivision's governing body, may develop mutual aid agreements for reciprocal emergency management aid and assistance. Such agreements shall be consistent with the State emergency management program and plans.

(d) Political Subdivisions Authorized to Enter Agreements with Political Subdivisions in Other States. – The chief executive officer of each political subdivision, with the concurrence of the governing body and subject to the approval of the Governor, may enter into mutual aid agreements with local chief executive officers in other states for reciprocal emergency management aid and assistance. These agreements shall be consistent with the State emergency management program and plans.

(e) Terms of Agreements. – Mutual aid agreements may include, but are not limited to, the furnishing or exchange of such supplies, equipment, facilities, personnel, and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items; and on such terms and conditions as deemed necessary.

"§ 166A-19.73. Compensation.

(a) Extent of Compensation. – Compensation for services or for the taking or use of property shall be only to the extent that legal obligations of individual citizens are exceeded in a particular case and then only to the extent that the claimant has not been deemed to have volunteered his services or property without compensation.

(b) Limitation; Basis of Compensation. – Compensation for property shall be only if the property was commandeered, seized, taken, condemned, or otherwise used in coping with an emergency and this action was ordered by the Governor. The State shall make compensation for the property so seized, taken, or condemned on the following basis:

- (1) In case property is taken for temporary use, the Governor, within 30 days of the taking, shall fix the amount of compensation to be paid for such damage or failure to return. Whenever the Governor shall deem it advisable for the State to take title to property taken under this section, the Governor shall forthwith cause the owner of such property to be notified thereof in writing by registered mail, postage prepaid, or by the best means available, and forthwith cause to be filed a copy of said notice with the Secretary of State.

- (2) If the person entitled to receive the amounts so determined by the Governor as just compensation is unwilling to accept the same as full and complete compensation for such property or the use thereof, the person shall be paid seventy-five percent (75%) of such amount and shall be entitled to recover from the State of North Carolina in an action brought in the superior court in the county of residence of claimant, or in Wake County, in the same manner as other condemnation claims are brought, within three years after the date of the Governor's award.

"§ 166A-19.74. Nondiscrimination in emergency management.

State and local governmental bodies and other organizations and personnel who carry out emergency management functions under the provisions of this Article are required to do so in an equitable and impartial manner. Such State and local governmental bodies, organizations, and personnel shall not discriminate on the grounds of race, color, religion, nationality, sex, age, or economic status in the distribution of supplies, the processing of applications, and other relief and assistance activities.

"§ 166A-19.75. Emergency management personnel.

(a) Limitation. – No person shall be employed or associated in any capacity in any emergency management agency established under this Article if that person does or has done any of the following:

- (1) Advocates or has advocated a change by force or violence in the constitutional form of the Government of the United States or in this State.
- (2) Advocates or has advocated the overthrow of any government in the United States by force or violence.
- (3) Has been convicted of any subversive act against the United States.
- (4) Is under indictment or information charging any subversive act against the United States.
- (5) Has ever been a member of the Communist Party.

(b) Oath. – Each person who is appointed to serve in any emergency management agency shall, before entering upon the person's duties, take a written oath before a person authorized to administer oaths in this State, which oath shall be substantially as follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of North Carolina, against all enemies, foreign and domestic; and that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I ever knowingly been, a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence; and that during such time as I am a member of the State Emergency Management Agency I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence, so help me God."

(c) No Violation of Dual Office Holding Prohibition. – No position created by or pursuant to this Article shall be deemed an office within the meaning of Section 9 of Article 6 of the North Carolina Constitution.

"§ 166A-19.76. Leave options for voluntary firefighters, rescue squad workers, and emergency medical service personnel called into service.

(a) Leave Without Pay. – A member of a volunteer fire department, rescue squad, or emergency medical services agency called into service of the State after a declaration of a state of emergency by the Governor or by the General Assembly, or upon the activation of the State Emergency Response Team in response to an emergency, shall have the right to take leave without pay from his or her civilian employment. No member of a volunteer fire department, rescue squad, or emergency medical services agency shall be forced to use or exhaust his or her

vacation or other accrued leave from his or her civilian employment for a period of active service. The choice of leave shall be solely within the discretion of the member.

(b) Request in Writing Required. – For the volunteer member to be entitled to take leave without pay pursuant to this section, his or her services shall be requested in writing by the Director of the Division or by the head of a local emergency management agency. The request shall be directed to the Chief of the member's volunteer fire department, rescue squad, or emergency medical services agency, and a copy shall be provided to the member's employer. This section shall not apply to those members whose services have been certified by their employer to the Director of the Division, or to the head of a local emergency management agency, as essential to the employer's own ongoing emergency relief activities.

(c) Definition of an Emergency Requiring Activation of the State Emergency Response Team. – For purposes of this section, an emergency requiring the activation of the State Emergency Response Team means an emergency at Activation Level 2 or greater according to the North Carolina State Emergency Operations Plan of November 2002. Activation Level 2 requires the State Emergency Operations Center to be fully activated with 24-hour staffing from all State Emergency Response Team members.

(d) Enforcement. – The Commissioner of Labor shall enforce the provisions of this section pursuant to Chapter 95 of the General Statutes.

"§ 166A-19.77. Division of Forest Resources designated as emergency response agency.

The Division of Forest Resources of the Department of Agriculture and Consumer Services is designated an emergency response agency of the State of North Carolina for purposes of the following:

- (1) Supporting the Division in responding to all-risk incidents.
- (2) Receipt of any applicable State or federal funding.
- (3) Training of other State and local agencies in emergency management.
- (4) Any other emergency response roles for which the Division has special training or qualifications.

"§ 166A-19.78. Governor's power to order evacuation of public building.

When it is determined by the Governor that a great public crisis, disaster, riot, catastrophe, or any other similar public emergency exists, or the occurrence of any such condition is imminent, and, in the Governor's opinion it is necessary to evacuate any building owned or controlled by any department, agency, institution, school, college, board, division, commission, or subdivision of the State in order to maintain public order and safety or to afford adequate protection for lives or property, the Governor is hereby authorized to issue an order of evacuation directing all persons within the building to leave the building and its premises forthwith. The order shall be delivered to any law enforcement officer or officer of the National Guard, and such officer shall, by a suitable public address system, read the order to the occupants of the building and demand that the occupants forthwith evacuate said building within the time specified in the Governor's order.

"§ 166A-19.79. Severability.

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable."

SECTION 1.(c) The title of Article 36A of Chapter 14 of the General Statutes reads as rewritten:

"Article 36A.

~~Riots and Civil Disorders.~~ Riots, Civil Disorders, and Emergencies."

SECTION 1.(d) Article 36A of Chapter 14 is amended by adding a new section to read:

"§ 14-288.20A. Violation of emergency prohibitions and restrictions.

Any person who does any of the following is guilty of a Class 2 misdemeanor:

- (1) Violates any provision of an ordinance or a declaration enacted or declared pursuant to G.S. 166A-19.31.
- (2) Violates any provision of a declaration or executive order issued pursuant to G.S. 166A-19.30.
- (3) Willfully refuses to leave the building as directed in a Governor's order issued pursuant to G.S. 166A-19.78."

II. CONFORMING CHANGES

SECTION 2.(a) G.S. 14-288.1 reads as rewritten:

"§ 14-288.1. Definitions.

Unless the context clearly requires otherwise, the ~~definitions in this section apply throughout this Article;~~ following definitions apply in this Article:

- (1) ~~"Chairman of the board of county commissioners":~~Chairman of the board of county commissioners. – The chairman of the board of county commissioners or, in case of the chairman's absence or disability, the person authorized to act in the chairman's stead. Unless the governing body of the county has specified who is to act in lieu of the chairman with respect to a particular power or duty set out in this Article, the term "chairman of the board of county commissioners" shall apply to the person generally authorized to act in lieu of the chairman.
- (2) ~~"Dangerous weapon or substance":~~Dangerous weapon or substance. – Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device, as defined in G.S. 14-288.8(c)(5), or any instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict serious bodily injury, when the circumstances indicate a probability that such instrument or substance will be so used; or any part or ingredient in any instrument or substance included above, when the circumstances indicate a probability that such part or ingredient will be so used.
- (3) ~~"Declared state of emergency":~~Declared state of emergency. – A state of emergency as that term is defined in G.S. 166A-19.3 or a state of emergency found and proclaimed by the Governor under the authority of G.S. 14-288.15, by any mayor or other municipal official or officials under the authority of G.S. 14-288.12, by any chairman of the board of commissioners of any county or other county official or officials under the authority of G.S. 14-288.13, by any chairman of the board of county commissioners acting under the authority of G.S. 14-288.14, by declared by any chief executive official or acting chief executive official of any county or municipality acting under the authority of any other applicable statute or provision of the common law to preserve the public peace in a state of emergency, or by any executive official or military commanding officer of the United States or the State of North Carolina who becomes primarily responsible under applicable law for the preservation of the public peace within any part of North Carolina.
- (4) ~~"Disorderly conduct":~~Disorderly conduct. – As defined in G.S. 14-288.4(a).
- (4a) Emergency. – As defined in G.S. 166A-19.3.
- (5) ~~"Law enforcement officer":~~Law enforcement officer. – Any officer of the State of North Carolina or any of its political subdivisions authorized to make arrests; any other person authorized under the laws of North Carolina to make arrests and either acting within that person's territorial jurisdiction

or in an area in which that person has been lawfully called to duty by the Governor or any mayor or chairman of the board of county commissioners; any member of the Armed Forces of the United States, the North Carolina National Guard, or the North Carolina State Defense Militia called to duty in a state of emergency in North Carolina and made responsible for enforcing the laws of North Carolina or preserving the public peace; or any officer of the United States authorized to make arrests without warrant and assigned to duties that include preserving the public peace in North Carolina.

- (6) ~~"Mayor":~~Mayor. – The mayor or other chief executive official of a municipality or, in case of that person's absence or disability, the person authorized to act in that person's stead. Unless the governing body of the municipality has specified who is to act in lieu of the mayor with respect to a particular power or duty set out in this Article, the word "mayor" shall apply to the person generally authorized to act in lieu of the mayor.
- (7) ~~"Municipality":~~Municipality. – Any active incorporated city or town, but not including any sanitary district or other municipal corporation that is not a city or town. An "active" municipality is one which has conducted the most recent election required by its charter or the general law, whichever is applicable, and which has the authority to enact general police-power ordinances.
- (8) ~~"Public disturbance":~~Public disturbance. – Any annoying, disturbing, or alarming act or condition exceeding the bounds of social toleration normal for the time and place in question which occurs in a public place or which occurs in, affects persons in, or is likely to affect persons in a place to which the public or a substantial group has access. The places covered by this definition shall include, but not be limited to, highways, transport facilities, schools, prisons, apartment houses, places of business or amusement, or any neighborhood.
- (9) ~~"Riot":~~Riot. – As defined in G.S. 14-288.2(a).
- (10) ~~"State of emergency": The condition that exists whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, public safety authorities are unable to maintain public order or afford adequate protection for lives or property, or whenever the occurrence of any such condition is imminent."~~

SECTION 2.(b) G.S. 14-288.4(a)(4)c. reads as rewritten:

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

- ...
- (4) Refuses to vacate any building or facility of any public or private educational institution in obedience to any of the following:
- ...
- c. If ~~a state of an~~ emergency is occurring or is imminent within the institution, an order given by any law-enforcement officer acting within the scope of the officer's authority."

SECTION 2.(c) G.S. 14-288.7 is repealed.

SECTION 2.(d) G.S. 14-288.11 reads as rewritten:

"§ 14-288.11. Warrants to inspect vehicles in riot areas or approaching municipalities during emergencies.

(a) Notwithstanding the provisions of Article 4 of Chapter 15, any law-enforcement officer may, under the conditions specified in this section, obtain a warrant authorizing inspection of vehicles under the conditions and for the purpose specified in subsection (b).

(b) The inspection shall be for the purpose of discovering any dangerous weapon or substance likely to be used by one who is or may become unlawfully involved in a riot. The warrant may be sought to inspect:

- (1) All vehicles entering or approaching a municipality in which ~~a state of an~~ emergency exists; or
- (2) All vehicles which might reasonably be regarded as being within or approaching the immediate vicinity of an existing riot.

(c) The warrant may be issued by any judge or justice of the General Court of Justice.

(d) The issuing official shall issue the warrant only when he has determined that the one seeking the warrant has been specifically authorized to do so by the head of the law-enforcement agency of which the affiant is a member, and:

- (1) If the warrant is being sought for the inspection of vehicles entering or approaching a municipality, that ~~a state of an~~ emergency exists within the municipality; or
- (2) If the warrant being sought is for the inspection of vehicles within or approaching the immediate vicinity of a riot, that a riot is occurring within that area.

Facts indicating the basis of these determinations must be stated in an affidavit and signed by the affiant under oath or affirmation.

(e) The warrant must be signed by the issuing official and must bear the hour and date of its issuance.

(f) The warrant must indicate whether it is for the inspection of vehicles entering or approaching a municipality or whether it is for the inspection of vehicles within or approaching the immediate vicinity of a riot. In either case, it must also specify with reasonable precision the area within which it may be exercised.

(g) The warrant shall become invalid 24 hours following its issuance and must bear a notation to that effect.

(h) Warrants authorized under this section shall not be regarded as search warrants for the purposes of application of Article 4 of Chapter 15.

(i) Nothing in this section is intended to prevent warrantless frisks, searches, and inspections to the extent that they may be constitutional and consistent with common law and governing statutes."

SECTION 2.(e) G.S. 14-288.12 through G.S. 14-288.17 and G.S. 14-288.19 are repealed.

SECTION 2.(f) G.S. 14-288.18 reads as rewritten:

"§ 14-288.18. Injunction to cope with emergencies at public and private educational institutions.

(a) The chief administrative officer, or his authorized representative, of any public or private educational institution may apply to any superior court judge for injunctive relief if ~~a state of an~~ emergency exists ~~or is imminent~~ within his institution. For the purposes of this section, the superintendent of any city or county administrative school unit shall be deemed the chief administrative officer of any public elementary or secondary school within his unit.

(b) Upon a finding by a superior court judge, to whom application has been made under the provisions of this section, that ~~a state of an~~ emergency exists ~~or is imminent~~ within a public or private educational institution by reason of riot, disorderly conduct by three or more persons, or the imminent threat of riot, the judge may issue an injunction containing provisions appropriate to cope with the emergency then occurring or threatening. The injunction may be addressed to named persons or named or described groups of persons as to whom there is satisfactory cause for believing that they are contributing to the ~~existing or imminent state of~~ emergency, and ordering such persons or groups of persons to take or refrain or desist from taking such various actions as the judge finds it appropriate to include in his order."

SECTION 2.(g) G.S. 20-118.4(a) reads as rewritten:

"§ 20-118.4. Firefighting equipment exempt from size and weight restrictions while transporting or moving heavy equipment in an emergency; permits.

(a) Exemption From Weight and Size Restrictions During Emergency Response. – Any overweight or oversize vehicle owned and operated by a State or local government or cooperating federal agency is exempt from the weight and size restrictions of this Chapter and implementing rules while it is actively engaged in (i) a response to a fire under the authority of a forest ranger pursuant to G.S. 113-55(a); (ii) a county request for forest protection assistance pursuant to G.S. 113-59; (iii) a request for assistance under a state of emergency declared pursuant to ~~G.S. 14-288.12, 14-288.13, 14-288.14, 14-288.15,~~ G.S. 166A-19.20 or G.S. 166A-19.22, and any other applicable statutes and provisions of common law; (iv) a request for assistance under a disaster declared pursuant to ~~G.S. 166A-6~~ or ~~G.S. 166A-8,~~ G.S. 166A-19.21 when the vehicle meets the following conditions:

...."

SECTION 2.(h) G.S. 42A-36 reads as rewritten:

"§ 42A-36. Mandatory evacuations.

If State or local authorities, acting pursuant to ~~Article 36A of Chapter 14~~ or ~~Article 1 of Chapter 166A~~ Article 1A of Chapter 166A of the General Statutes, order a mandatory evacuation of an area that includes the residential property subject to a vacation rental, the tenant under the vacation rental agreement, whether in possession of the property or not, shall comply with the evacuation order. Upon compliance, the tenant shall be entitled to a refund from the landlord of the rent, taxes, and any other payments made by the tenant pursuant to the vacation rental agreement as a condition of the tenant's right to occupy the property prorated for each night that the tenant is unable to occupy the property because of the mandatory evacuation order. The tenant shall not be entitled to a refund if: (i) prior to the tenant taking possession of the property, the tenant refused insurance offered by the landlord or real estate broker that would have compensated the tenant for losses or damages resulting from loss of use of the property due to a mandatory evacuation order; or (ii) the tenant purchased insurance offered by the landlord or real estate broker. The insurance offered shall be provided by an insurance company duly authorized by the North Carolina Department of Insurance, and the cost of the insurance shall not exceed eight percent (8%) of the total amount charged for the vacation rental to the tenant less the amount paid by the tenant for a security deposit."

SECTION 2.(i) G.S. 58-2-46 reads as rewritten:

"§ 58-2-46. State of ~~disaster~~emergency automatic stay of proof of loss requirements; premium and debt deferrals; loss adjustments for separate windstorm policies.

Whenever a state of ~~disaster~~emergency is proclaimed for the State or for an area within the State under ~~G.S. 166A-6~~ G.S. 166A-19.20 or whenever the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Stafford Act, 42 U.S.C. § 5121, et seq., as amended:

...."

SECTION 2.(j) G.S. 58-2-47 reads as rewritten:

"§ 58-2-47. Incident affecting operations of the Department; stay of deadlines and deemer provisions.

Regardless of whether a state of ~~disaster~~emergency has been proclaimed under ~~G.S. 166A-6~~ G.S. 166A-19.20 or declared under the Stafford Act, whenever an incident beyond the Department's reasonable control, including an act of God, insurrection, strike, fire, power outage, or systematic technological failure, substantially affects the daily business operations of the Department, the Commissioner may issue an order, effective immediately, to stay the application of any deadlines and deemer provisions imposed by law or rule upon the Commissioner or Department or upon persons subject to the Commissioner's jurisdiction, which deadlines and deemer provisions would otherwise operate during the time period for which the operations of the Department have been substantially affected. The order shall remain in effect for a period not exceeding 30 days. The order may be renewed by the Commissioner for successive periods not exceeding 30 days each for as long as the operations

of the Department remain substantially affected, up to a period of one year from the effective date of the initial order."

SECTION 2.(k) G.S. 58-3-228(b)(2) reads as rewritten:

- "(2) The covered person requesting coverage of the refill or replacement prescription resides in a county that:
- a. Is covered under a ~~proclamation of state of disaster~~state of emergency issued by the Governor or ~~by a resolution of the General Assembly under G.S. 166A-6, G.S. 166A-19.20,~~ or a declaration of major disaster issued by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., as amended; or
 - b. ~~Is declared to be under a state of emergency in a proclamation issued by the Governor under G.S. 14-288.15."~~

SECTION 2.(l) G.S. 58-33-70(e) reads as rewritten:

"(e) The Commissioner may permit an experienced adjuster, who regularly adjusts in another state and who is licensed in the other state (if that state requires a license), to act as an adjuster in this State without a North Carolina license only for an insurance company authorized to do business in this State, for emergency insurance adjustment work, for a period to be determined by the Commissioner, done for an employer who is an adjuster licensed by this State or who is a regular employer of one or more adjusters licensed by this State; provided that the employer shall furnish to the Commissioner a notice in writing immediately upon the beginning of any such emergency insurance adjustment work. As used in this subsection, "emergency insurance adjustment work" includes, but is not limited to, (i) adjusting of a single loss or losses arising out of an event or catastrophe common to all of those losses or (ii) adjusting losses in any area declared to be a state of ~~disaster~~emergency by the Governor under ~~G.S. 166A-6~~G.S. 166A-19.20 or by the President of the United States under applicable federal law."

SECTION 2.(m) G.S. 58-44-70(a) reads as rewritten:

"(a) This Part provides for a nonadversarial alternative dispute resolution procedure for a facilitated claim resolution conference prompted by the critical need for effective, fair, and timely handling of insurance claims arising out of damages to residential property as the result of an event for which there is a state of ~~disaster~~emergency declared within 60 days of the event. This Part applies only (i) if a state of ~~disaster~~emergency has been proclaimed for the State or for an area within the State by the Governor or by a resolution of the General Assembly under ~~G.S. 166A-6; G.S. 166A-19.20;~~ or (ii) if the President of the United States has issued a major disaster declaration for the State or for an area within the State under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, et seq., as amended; and (iii) if the Commissioner issues an order establishing the mediation procedure authorized by this Part."

SECTION 2.(n) G.S. 58-44-75(2) reads as rewritten:

"§ 58-44-75. Definitions.

As used in this Part:

- ...
- (2) Disaster. ~~—As defined in G.S. 166A-4(1).~~As the term "emergency" is defined in G.S. 166A-19.3(6)."

SECTION 2.(o) G.S. 75-38(d) reads as rewritten:

"(d) A "triggering event" means the declaration of a state of emergency ~~pursuant to G.S. 166A-8 or Article 36A of Chapter 14 of the General Statutes,~~ the proclamation of a state of disaster pursuant to G.S. 166A-6, pursuant to Article 1A of Chapter 166A of the General Statutes or a finding of abnormal market disruption pursuant to G.S. 75-38(e)."

SECTION 2.(p) G.S. 83A-13.1(a) reads as rewritten:

"(a) A professional architect who voluntarily, without compensation, provides structural, electrical, mechanical, or other architectural services at the scene of a declared disaster or emergency, declared under federal law or in accordance with the provisions of ~~Article 1 of Chapter 166A of the General Statutes or Article 36A of Chapter 14 of the General Statutes,~~ Article 1A of Chapter 166A of the General Statutes, at the request of a public official, law enforcement official, public safety official, or building inspection official, acting in an official capacity, shall not be liable for any personal injury, wrongful death, property damage, or other loss caused by the professional architect's acts or omissions in the performance of the architectural services."

SECTION 2.(q) G.S. 89C-19.1(a) reads as rewritten:

"(a) A professional engineer who voluntarily, without compensation, provides structural, electrical, mechanical, or other engineering services at the scene of a declared disaster or emergency, declared under federal law or in accordance with the provisions of ~~Article 1 of Chapter 166A of the General Statutes or Article 36A of Chapter 14 of the General Statutes,~~ Article 1A of Chapter 166A of the General Statutes, at the request of a public official, law enforcement official, public safety official, or building inspection official, acting in an official capacity, shall not be liable for any personal injury, wrongful death, property damage, or other loss caused by the professional engineer's acts or omissions in the performance of the engineering services."

SECTION 2.(r) G.S. 122C-409 reads as rewritten:

"§ 122C-409. Community of Butner comprehensive emergency management plan.

The Department of Public Safety shall establish an emergency management agency as defined in ~~G.S. 166A-4(2)~~ G.S. 166A-19.3(9) for the Camp Butner Reservation, and the Town of Butner."

SECTION 2.(s) G.S. 131D-7 reads as rewritten:

"§ 131D-7. Waiver of rules for certain adult care homes providing shelter or services during disaster or emergency.

(a) The Division of Health Service Regulation may temporarily waive, during disasters or emergencies declared in accordance with ~~Article 1~~ Article 1A of Chapter 166A of the General Statutes, any rules of the Commission pertaining to adult care homes to the extent necessary to allow the adult care home to provide temporary shelter and temporary services requested by the emergency management agency. The Division may identify, in advance of a declared disaster or emergency, rules that may be waived, and the extent the rules may be waived, upon a disaster or emergency being declared in accordance with ~~Article 1~~ Article 1A of Chapter 166A of the General Statutes. The Division may also waive rules under this subsection during a declared disaster or emergency upon the request of an emergency management agency and may rescind the waiver if, after investigation, the Division determines the waiver poses an unreasonable risk to the health, safety, or welfare of any of the persons occupying the adult care home. The emergency management agency requesting temporary shelter or temporary services shall notify the Division within 72 hours of the time the preapproved waivers are deemed by the emergency management agency to apply.

(b) As used in this section, "emergency management agency" is as defined in ~~G.S. 166A-4(2)~~ G.S. 166A-19.3."

SECTION 2.(t) G.S. 131E-84 reads as rewritten:

"§ 131E-84. Waiver of rules for hospitals that provide temporary shelter or temporary services during a disaster or emergency.

(a) The Division of Health Service Regulation may temporarily waive, during disasters or emergencies declared in accordance with ~~Article 1~~ Article 1A of Chapter 166A of the General Statutes, any rules of the Commission pertaining to a hospital to the extent necessary to allow the hospital to provide temporary shelter and temporary services requested by the emergency management agency. The Division may identify, in advance of a declared disaster or emergency, rules that may be waived, and the extent to which the rules may be waived, upon a declaration of disaster or emergency in accordance with ~~Article 1~~ Article 1A of Chapter 166A

of the General Statutes. The Division may also waive rules under this subsection during a declared disaster or emergency upon the request of an emergency management agency and may rescind the waiver if, after investigation, the Division determines the waiver poses an unreasonable risk to the health, safety, or welfare of any of the persons occupying the hospital. The emergency management agency requesting temporary shelter or temporary services shall notify the Division within 72 hours of the time the preapproved waivers are deemed by the emergency management agency to apply.

(b) As used in this section, "emergency management agency" is as defined in ~~G.S. 166A-4~~G.S. 166A-19.3."

SECTION 2.(u) G.S. 131E-112 reads as rewritten:

"§ 131E-112. **Waiver of rules for health care facilities that provide temporary shelter or temporary services during a disaster or emergency.**

(a) The Division of Health Service Regulation may temporarily waive, during disasters or emergencies declared in accordance with ~~Article 1~~Article 1A of Chapter 166A of the General Statutes, any rules of the Commission pertaining to facilities or home care agencies to the extent necessary to allow the facility or home care agency to provide temporary shelter and temporary services requested by the emergency management agency. The Division may identify, in advance of a declared disaster or emergency, rules that may be waived, and the extent the rules may be waived, upon a disaster or emergency being declared in accordance with ~~Article 1~~Article 1A of Chapter 166A of the General Statutes. The Division may also waive rules under this subsection during a declared disaster or emergency upon the request of an emergency management agency and may rescind the waiver if, after investigation, the Division determines the waiver poses an unreasonable risk to the health, safety, or welfare of any of the persons occupying the facility. The emergency management agency requesting temporary shelter or temporary services shall notify the Division within 72 hours of the time the preapproved waivers are deemed by the emergency management agency to apply.

(b) As used in this section, "emergency management agency" is as defined in ~~G.S. 166A-4(2)~~G.S. 166A-19.3."

SECTION 2.(v) G.S. 143C-4-4(b) reads as rewritten:

"(b) Authorized Uses. – Notwithstanding any other provision of law, funds appropriated to the Contingency and Emergency Fund may be used only for expenditures required: (i) by a court or Industrial Commission order, (ii) to respond to events as authorized under ~~G.S. 166A-5(1)a.9~~G.S. 166A-19.40(a) of the North Carolina Emergency Management Act, or (iii) for other statutorily authorized purposes or other contingencies and emergencies."

SECTION 2.(w) G.S. 143C-5-2 reads as rewritten:

"§ 143C-5-2. **Order of appropriations bills.**

Each house of the General Assembly shall first pass its version of the Current Operations Appropriations Act on third reading and order it sent to the other chamber before placing any other appropriations bill on the calendar for second reading. This section does not apply to the following bills:

- (1) An appropriations bill to respond to ~~a disaster as defined by G.S. 166A-4(1)~~an emergency as defined by G.S. 166A-19.3.
- (2) An appropriations bill making adjustments to the current year budget.
- (3) An appropriations bill authorizing continued operations at current funding levels."

SECTION 2.(x) G.S. 143C-6-4(b)(2) reads as rewritten:

"(b) Adjustments to the Certified Budget. – Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was authorized in the certified budget for all of the following:

- ...
- (2) A purpose or program if the overexpenditure of the purpose or program is:

- a. Required by a court or Industrial Commission order;
- b. Authorized under ~~G.S. 166A-5(1)a.9.~~ G.S. 166A-19.40(a) of the North Carolina Emergency Management Act; or
- c. Required to call out the National Guard."

SECTION 2.(y) G.S. 166A-24 reads as rewritten:

"§ 166A-24. Immunity of Regional Response Team Personnel.

Members of a regional response team shall be protected from liability under the provisions of ~~G.S. 166A-14(a)~~ G.S. 166A-19.60(a) while responding to a hazardous materials or terrorist incident pursuant to authorization from the Division of Emergency Management."

SECTION 2.(z) G.S. 14-409.40(f) reads as rewritten:

"(f) Nothing contained in this section prohibits municipalities or counties from application of their authority under G.S. 153A-129, 160A-189, 14-269, 14-269.2, 14-269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the possession of firearms in public-owned buildings, on the grounds or parking areas of those buildings, or in public parks or recreation areas, except nothing in this subsection shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is on these grounds or areas. Nothing contained in this section prohibits municipalities or counties from exercising powers provided by law in ~~declared~~ states of emergency declared under ~~Article 36A of this Chapter.~~ Article 1A of Chapter 166A of the General Statutes."

SECTION 2.(aa) G.S. 14-415.4(e)(6) reads as rewritten:

"(e) Disqualifiers Requiring Denial of Petition. – The court shall deny the petition to restore the firearms rights of any petitioner if the court finds any of the following:

- ...
- (6) The petitioner is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including a misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1, 14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2), 14-288.6, 14-288.9, former 14-288.12, former 14-288.13, former 14-288.14, 14-288.20A, 14-318.2, 14-415.21(b), or 14-415.26(d), or a substantially similar out-of-state or federal offense."

SECTION 2.(bb) G.S. 14-415.12(b)(8) reads as rewritten:

"(b) The sheriff shall deny a permit to an applicant who:

- ...
- (8) Is or has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including but not limited to, a violation of a misdemeanor under Article 8 of Chapter 14 of the General Statutes, or a violation of a misdemeanor under G.S. 14-225.2, 14-226.1, 14-258.1, 14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1, 14-277.2, 14-277.3A, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1) or (2), 14-288.6, 14-288.9, former 14-288.12, former 14-288.13, former 14-288.14, 14-288.20A, 14-318.2, 14-415.21(b), 14-415.26(d), or former G.S. 14-277.3."

SECTION 2.(cc) G.S. 18B-110 reads as rewritten:

"§ 18B-110. Emergency.

When the Governor finds that a ~~"state of emergency," as defined in G.S. 14-288.1, an emergency, as that term is defined in G.S. 166A-19.3,~~ exists anywhere in this State, ~~he~~ the Governor may

- (1) Order the closing of all ABC stores; and
- (2) Order the cessation of all sales, transportation, manufacture, and bottling of alcoholic beverages.

The Governor's order shall apply in those portions of the State designated in the order, for the duration of the state of emergency. Any order by the Governor under this section shall be directed to the Chairman of the Commission and to the Secretary of Public Safety."

SECTION 2.(dd) G.S. 70-13.1(a)(2) reads as rewritten:

"(2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears upon an applicant's fitness to conduct archaeological investigations under G.S. 70-13. 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 and Court 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 19C, Financial Identity Fraud; 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~~; Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 2.(ee) G.S. 74F-18(a)(2) reads as rewritten:

"(2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice locksmithing. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, ~~Riots and Civil Disorders~~; Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article

5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states."

SECTION 2.(ff) G.S. 90-12.5 reads as rewritten:

"§ 90-12.5. Disasters and emergencies.

In the event of an occurrence which the Governor of the State of North Carolina has declared ~~a disaster or when the Governor has declared~~ a state of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with states of emergency under ~~G.S. 14-288.12, 14-288.13, or 14-288.14~~, G.S. 166A-19.31, or to protect the public health, safety, or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-121(a), as applicable, the Board may waive the requirements of this Article in order to permit the provision of emergency health services to the public."

SECTION 2.(gg) G.S. 90-85.25(a) reads as rewritten:

"§ 90-85.25. Disasters and emergencies.

(a) In the event of an occurrence which the Governor of the State of North Carolina has declared ~~a disaster or when the Governor has declared~~ a state of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with states of emergency under ~~G.S. 14-288.12, 14-288.13, or 14-288.14~~, G.S. 166A-19.31, or to protect the public health, safety, or welfare of its citizens under G.S. 160A-174(a) or G.S. 153A-121(a), as applicable, the Board may waive the requirements of this Article in order to permit the provision of drugs, devices, and professional services to the public."

SECTION 2.(hh) G.S. 90-113.31A(14) reads as rewritten:

"(14) Criminal history. – A history of conviction of a State crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice substance abuse professional services. 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~~; Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 2.(ii) G.S. 90-171.48(a)(2) reads as rewritten:

- "(2) Criminal history. – A history of conviction of a State crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice nursing. 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;~~ Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 2.(jj) G.S. 90-270.63(a)(2) reads as rewritten:

- "(2) Criminal history. – A history of conviction of a State or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice marriage and family therapy. 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;~~ Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses, including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this

subdivision, such crimes also include similar crimes under federal law or under the laws of other states."

SECTION 2.(kk) G.S. 90-288.01(a)(2) reads as rewritten:

- "(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;~~ Riots, Civil Disorders, and Emergencies; 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."

SECTION 2.(ll) G.S. 90-345(a)(2) reads as rewritten:

- "(2) Criminal history. – A history of conviction of a State or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice professional counseling. 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;~~ Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation

of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states."

SECTION 2.(mm) G.S. 93E-2-11(a)(2) reads as rewritten:

"(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 registration to act as a real estate appraisal management company. 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~~; Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses, including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states."

SECTION 2.(nn) G.S. 114-19.6(a)(2) reads as rewritten:

"(2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses

Against the Public Peace; Article 36A, ~~Riots and Civil Disorders; Riots, Civil Disorders, and Emergencies~~; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 2.(oo) G.S. 114-19.12(a)(2) reads as rewritten:

"(2) Criminal history. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for holding a paid or volunteer position with a fire department. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, ~~Riots and Civil Disorders; Riots, Civil Disorders, and Emergencies~~; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 2.(pp) G.S. 114-19.23(a)(2) reads as rewritten:

"(2) "Criminal history" means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Public Instruction. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct

in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, ~~Riots and Civil Disorders~~; Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 2.(qq) G.S. 115C-238.29K(a)(1) reads as rewritten:

"(1) "Criminal history" means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates an individual (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel. These crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred 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 Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; 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~~; Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states."

SECTION 2.(rr) G.S. 115C-332(a)(1) reads as rewritten:

"(1) "Criminal history" means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates the employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as public school personnel. Such crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred 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 Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; 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~~; Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subparagraph, such crimes also include similar crimes under federal law or under the laws of other states."

SECTION 2.(ss) G.S. 121-25.1(a)(2) reads as rewritten:

"(2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears upon an applicant's fitness to conduct activities related to the surveillance, protection, preservation, and archaeological recovery of property subject to the exclusive dominion and control of the State under G.S. 121-22. 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 and Court 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 19C, Financial Identity Fraud; 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~~; Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 2.(tt) G.S. 122C-80(e) reads as rewritten:

"(e) Relevant Offense. – As used in this section, "relevant offense" means a county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of persons needing mental health, developmental disabilities, or substance abuse services. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,

Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, ~~Riots and Civil Disorders~~; Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 2.(uu) G.S. 131D-40(d) reads as rewritten:

"(d) Relevant Offense. – As used in this section, "relevant offense" means a county, state, or federal criminal history of conviction or pending indictment of a crime, whether a misdemeanor or felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of aged or disabled persons. These crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, ~~Riots and Civil Disorders~~; Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5."

SECTION 2.(vv) G.S. 143-143.10A(a)(2) reads as rewritten:

"(2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure under this Part. 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; Riots, Civil Disorders, and Emergencies~~; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states."

SECTION 2.(ww) G.S. 143-215.94II reads as rewritten:

"§ **143-215.94II. Emergency proclamation; Governor's powers.**

(a) Whenever any emergency exists or appears imminent, arising from the discharge of oil or other pollutants within the marine environment, the Governor shall by proclamation declare ~~the fact and that~~ a state of emergency exists in the appropriate sections of the State. Upon such proclamation, the Governor shall have all powers enumerated in ~~G.S. 14-288.15, G.S. 166A-19.30(c)~~ subject to the ~~provisions of G.S. 14-288.16~~ limitations contained in that subsection.

(b) If the Governor is unavailable, the Lieutenant Governor shall, by proclamation, ~~declare the fact and that a~~ declare a state of emergency exists in the appropriate sections of the State.

(c) In performing his duties under this section, the Governor is authorized and directed to cooperate with all departments and agencies of the federal government, the offices and agencies of other states and foreign countries and the political subdivisions thereof, and private agencies in all matters pertaining to an emergency described herein.

(d) In addition to the powers enumerated in ~~G.S. 14-288.15, G.S. 166A-19.30(c)~~, in the case of such an emergency described in subsection (a) of this section, the Governor is further authorized and empowered to transfer any funds available to him by statute for emergency use into the Oil or Other Hazardous Substances Pollution Protection Fund created pursuant to G.S. 143-215.87, to be utilized for the purposes specified therein."

SECTION 2.(xx) G.S. 143B-146.16(a)(1) reads as rewritten:

"(1) "Criminal history" means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates the employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel. Such crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred 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 Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; 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; Riots, Civil Disorders, and Emergencies~~; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. Such crimes also include possession or sale of

drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states."

SECTION 2.(yy) G.S. 153A-129 reads as rewritten:

"§ **153A-129. Firearms.**

A county may by ordinance regulate, restrict, or prohibit the discharge of firearms at any time or place except when used to take birds or animals pursuant to Chapter 113, Subchapter IV, when used in defense of person or property, or when used pursuant to lawful directions of law-enforcement officers. A county may also regulate the display of firearms on the public roads, sidewalks, alleys, or other public property. This section does not limit a county's authority to take action under ~~Chapter 14, Article 36A~~ Article 1A of Chapter 166A of the General Statutes."

SECTION 2.(zz) G.S. 160A-189 reads as rewritten:

"§ **160A-189. Firearms.**

A city may by ordinance regulate, restrict, or prohibit the discharge of firearms at any time or place within the city except when used in defense of person or property or pursuant to lawful directions of law-enforcement officers, and may regulate the display of firearms on the streets, sidewalks, alleys, or other public property. Nothing in this section shall be construed to limit a city's authority to take action under ~~Article 36A of Chapter 14 of the General Statutes~~ Article 1A of Chapter 166A of the General Statutes."

EFFECTIVE DATE

SECTION 3. This act becomes effective October 1, 2012.

In the General Assembly read three times and ratified this the 7th day of June, 2012.

Became law upon approval of the Governor at 4:40 p.m. on the 11th day of June, 2012.

Session Law 2012-13

H.B. 966

AN ACT TO REPEAL THE PROHIBITION ON TEACHER PREPAYMENT, CLARIFY ELIGIBILITY FOR THE NC PRE-K PROGRAM, AND ENACT 2012-2013 SALARY SCHEDULES FOR TEACHERS AND SCHOOL ADMINISTRATORS.

The General Assembly of North Carolina enacts:

REPEAL PROHIBITION ON PREPAYMENT OF TEACHERS

SECTION 1. Section 5 of S.L. 2011-379 is repealed.

CLARIFY NC PRE-K PROGRAM ELIGIBILITY

SECTION 2.(a) Section 10.7(f) of S.L. 2011-145 reads as rewritten:

"**SECTION 10.7.(f)** ~~The prekindergarten program may continue to serve at risk children identified through the existing "child find" methods in which at risk children are currently served within the Division of Child Development. The Division of Child Development shall serve at risk children regardless of income. However, the total number of at risk children served shall constitute no more than twenty percent (20%) of the four year olds served within the prekindergarten program. Any~~ The Division of Child Development and Early Education shall establish income eligibility requirements for the program not to exceed seventy-five percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled may have family incomes in excess of seventy-five percent (75%) of median income if they have other designated risk factors. Furthermore, any age-eligible child who is a child of either of the following shall be eligible for the program: (i) an active duty member of the Armed

Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was ordered to active duty by the proper authority within the last 18 months or is expected to be ordered within the next 18 months or (ii) a member of the Armed Forces of the United States, including the North Carolina National Guard, State military forces, or a reserve component of the Armed Forces, who was injured or killed while serving on active duty. Eligibility determinations for prekindergarten participants may continue through local education agencies and local North Carolina Partnership for Children, Inc., partnerships."

SECTION 2.(b) Section 10.7(h) of S.L. 2011-145 is repealed.

TEACHER SALARY SCHEDULES

SECTION 3.(a) The following monthly salary schedules shall apply for the 2012-2013 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 36 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2011-2012 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2012-2013 Monthly Salary Schedule

Years of Experience	"A" Teachers	NBPTS Certification
0	\$3,043	N/A
1	\$3,043	N/A
2	\$3,043	N/A
3	\$3,043	\$3,408
4	\$3,043	\$3,408
5	\$3,085	\$3,455
6	\$3,129	\$3,504
7	\$3,264	\$3,656
8	\$3,404	\$3,812
9	\$3,538	\$3,963
10	\$3,667	\$4,107
11	\$3,771	\$4,224
12	\$3,819	\$4,277
13	\$3,868	\$4,332
14	\$3,918	\$4,388
15	\$3,967	\$4,443
16	\$4,018	\$4,500
17	\$4,069	\$4,557
18	\$4,122	\$4,617
19	\$4,176	\$4,677
20	\$4,231	\$4,739
21	\$4,286	\$4,800
22	\$4,345	\$4,866
23	\$4,403	\$4,931
24	\$4,461	\$4,996
25	\$4,523	\$5,066
26	\$4,584	\$5,134
27	\$4,650	\$5,208
28	\$4,714	\$5,280

29	\$4,779	\$5,352
30	\$4,845	\$5,426
31	\$4,913	\$5,503
32	\$4,984	\$5,582
33	\$5,055	\$5,662
34	\$5,153	\$5,771
35+	\$5,255	\$5,886

2012-2013 Monthly Salary Schedule

"M" Teachers

Years of Experience	"M" Teachers	NBPTS Certification
0	\$3,347	N/A
1	\$3,347	N/A
2	\$3,347	N/A
3	\$3,347	\$3,749
4	\$3,347	\$3,749
5	\$3,394	\$3,801
6	\$3,442	\$3,855
7	\$3,590	\$4,021
8	\$3,744	\$4,193
9	\$3,892	\$4,359
10	\$4,034	\$4,518
11	\$4,148	\$4,646
12	\$4,201	\$4,705
13	\$4,255	\$4,766
14	\$4,310	\$4,827
15	\$4,364	\$4,888
16	\$4,420	\$4,950
17	\$4,476	\$5,013
18	\$4,534	\$5,078
19	\$4,594	\$5,145
20	\$4,654	\$5,212
21	\$4,715	\$5,281
22	\$4,780	\$5,354
23	\$4,843	\$5,424
24	\$4,907	\$5,496
25	\$4,975	\$5,572
26	\$5,042	\$5,647
27	\$5,115	\$5,729
28	\$5,185	\$5,807
29	\$5,257	\$5,888
30	\$5,330	\$5,970
31	\$5,404	\$6,052
32	\$5,482	\$6,140
33	\$5,561	\$6,228
34	\$5,668	\$6,348
35+	\$5,781	\$6,475

SECTION 3.(b) Section 29.12(d) of S.L. 2011-145 reads as rewritten:

"SECTION 29.12.(d) The first step of the salary schedule for school psychologists shall be equivalent to ~~Step 5, Step 9~~, corresponding to ~~five-nine~~ 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."

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 4.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2012-2013 fiscal year, commencing July 1, 2012. Provided, however, school-based administrators (i) employed during the 2011-2012 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2012-2013 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2012-2013 Principal and Assistant Principal Salary Schedules					
Classification					
Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-8	\$3,781	-	-	-	-
9	\$3,931	-	-	-	-
10	\$4,074	-	-	-	-
11	\$4,189	-	-	-	-
12	\$4,243	\$4,243	-	-	-
13	\$4,298	\$4,298	-	-	-
14	\$4,353	\$4,353	\$4,408	-	-
15	\$4,408	\$4,408	\$4,464	-	-
16	\$4,464	\$4,464	\$4,521	\$4,579	-
17	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
18	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
19	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
20	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
21	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
22	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
23	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
24	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
25	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
26	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
27	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
28	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
29	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
30	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
31	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
32	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
33	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
34	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
35	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
36	-	\$5,956	\$6,075	\$6,197	\$6,321
37	-	-	\$6,197	\$6,321	\$6,447
38	-	-	\$6,321	\$6,447	\$6,576

39	-	-	-	\$6,576	\$6,708
40	-	-	-	\$6,708	\$6,842
41	-	-	-	-	\$6,979

2012-2013 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+)
0-18	\$4,828	-	-	-
19	\$4,891	-	-	-
20	\$4,956	\$5,025	-	-
21	\$5,025	\$5,092	\$5,237	-
22	\$5,092	\$5,166	\$5,310	\$5,383
23	\$5,166	\$5,237	\$5,383	\$5,458
24	\$5,237	\$5,310	\$5,458	\$5,537
25	\$5,310	\$5,383	\$5,537	\$5,617
26	\$5,383	\$5,458	\$5,617	\$5,725
27	\$5,458	\$5,537	\$5,725	\$5,839
28	\$5,537	\$5,617	\$5,839	\$5,956
29	\$5,617	\$5,725	\$5,956	\$6,075
30	\$5,725	\$5,839	\$6,075	\$6,197
31	\$5,839	\$5,956	\$6,197	\$6,321
32	\$5,956	\$6,075	\$6,321	\$6,447
33	\$6,075	\$6,197	\$6,447	\$6,576
34	\$6,197	\$6,321	\$6,576	\$6,708
35	\$6,321	\$6,447	\$6,708	\$6,842
36	\$6,447	\$6,576	\$6,842	\$6,979
37	\$6,576	\$6,708	\$6,979	\$7,119
38	\$6,708	\$6,842	\$7,119	\$7,261
39	\$6,842	\$6,979	\$7,261	\$7,406
40	\$6,979	\$7,119	\$7,406	\$7,554
41	\$7,119	\$7,261	\$7,554	\$7,705
42	\$7,261	\$7,406	\$7,705	\$7,859
43	-	\$7,554	\$7,859	\$8,016
44	-	\$7,705	\$8,016	\$8,176
45	-	-	\$8,176	\$8,340

SECTION 4.(b) G.S. 29.13(h) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.13.(h)** During the 2011-2012 fiscal ~~year,~~ year and the 2012-2013 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."

EFFECTIVE DATE

SECTION 5. Section 2 of this act is effective when it becomes law. The remainder of this act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 5th day of June, 2012.

Became law upon approval of the Governor at 4:43 p.m. on the 11th day of June, 2012.

Session Law 2012-14**H.B. 345**

AN ACT TO MODIFY THE MOVE-OVER LAW TO INCLUDE ALL HIGHWAY MAINTENANCE VEHICLES AND UTILITY VEHICLES.

*The General Assembly of North Carolina enacts:***SECTION 1.** G.S. 20-157(f) reads as rewritten:

"(f) When an authorized emergency vehicle as described in subsection (a) of this section or any public service vehicle is parked or standing within 12 feet of a roadway and is giving a warning signal by appropriate light, the driver of every other approaching vehicle shall, as soon as it is safe and when not otherwise directed by an individual lawfully directing traffic, do one of the following:

- (1) Move the vehicle into a lane that is not the lane nearest the parked or standing authorized emergency vehicle or public service vehicle and continue traveling in that lane until safely clear of the authorized emergency vehicle. This paragraph applies only if the roadway has at least two lanes for traffic proceeding in the direction of the approaching vehicle and if the approaching vehicle may change lanes safely and without interfering with any vehicular traffic.
- (2) Slow the vehicle, maintaining a safe speed for traffic conditions, and operate the vehicle at a reduced speed and be prepared to stop until completely past the authorized emergency vehicle or public service vehicle. This paragraph applies only if the roadway has only one lane for traffic proceeding in the direction of the approaching vehicle or if the approaching vehicle may not change lanes safely and without interfering with any vehicular traffic.

For purposes of this section, "public service vehicle" means a vehicle that is being used to assist motorists or law enforcement officers with wrecked or disabled vehicles, or is a vehicle being used to install, maintain, or restore electric-utility service due to an unplanned event, service, including electric, cable, telephone, communications, and gas, or is a highway maintenance vehicle owned and operated by or contracted by the State or a local government, and is operating an amber-colored flashing light authorized by G.S. 20-130.2. Violation of this subsection shall be negligence per se.

SECTION 2. This act becomes effective October 1, 2012, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 6th day of June, 2012.

Became law upon approval of the Governor at 4:45 p.m. on the 11th day of June, 2012.

Session Law 2012-15**H.B. 302**

AN ACT TO BROADEN THE EXEMPTION FROM CHARITABLE LICENSING REQUIREMENTS FOR CERTAIN NONPROFIT ADULT RESIDENTIAL TREATMENT FACILITIES AND TO EXTEND THE SUNSET ON A WAIVER RELATING TO ALTERNATIVE STAFFING REQUIREMENTS FOR FACILITIES THAT USE ELECTRONIC SUPERVISION DEVICES.

*The General Assembly of North Carolina enacts:***SECTION 1.** G.S. 122C-22 reads as rewritten:**"§ 122C-22. Exclusions from licensure; deemed status.**

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

- (1) Physicians and psychologists engaged in private office practice;
- (2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for the mentally ill, developmentally disabled, or substance abusers;
- (3) State and federally operated facilities;
- (4) Adult care homes licensed under Chapter 131D of the General Statutes;
- (5) Developmental child care centers licensed under Article 7 of Chapter 110 of the General Statutes;
- (6) Persons subject to licensure under rules of the Social Services Commission;
- (7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services;
- (8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in G.S. 122C-3(14);
- (9) Twenty-four-hour nonprofit facilities established for the purposes of shelter care and recovery from alcohol or other drug addiction through a 12-step, self-help, peer role modeling, and self-governance approach;
- (10) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Department of Correction, as described in G.S. 148-19.1; and
- (11) A charitable, nonprofit, faith-based, adult residential treatment facility that does not receive any federal or State funding ~~and is part of an international organization serving at least 50 countries that helps persons ages 18 through 40 overcome life-controlling problems~~ and is a religious organization exempt from federal income tax under section 501(a) of the Internal Revenue Code.

...."

SECTION 2. Section 4 of S.L. 2009-490 reads as rewritten:

"SECTION 4. The Department of Health and Human Services, Division of Health Service Regulation shall establish a pilot program to study the use of electronic supervision devices as an alternative means of supervision during sleep hours at facilities for children and adolescents who have a primary diagnosis of mental illness and/or emotional disturbance. The pilot program shall be implemented at a facility currently authorized to waive the requirement set forth in 10A NCAC 27G .1704(c) or any related or subsequent rule or regulation by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services setting minimum overnight staffing requirements. The waiver shall remain in effect until ~~December 31, 2012; December 31, 2015;~~ however, the Division reserves the right to rescind the waiver if, at the time of the facility's license renewal, there are outstanding deficiencies that have remained uncorrected upon follow-up survey, that are related to electronic supervision."

SECTION 3. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 6th day of June, 2012.

Became law upon approval of the Governor at 4:47 p.m. on the 11th day of June, 2012.

Session Law 2012-16

H.B. 637

AN ACT TO AMEND THE LAWS APPLICABLE TO ADOPTIONS, AS RECOMMENDED BY THE NORTH CAROLINA BAR ASSOCIATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 48-2-302(a) is repealed.

SECTION 2. G.S. 48-2-304(a)(6) reads as rewritten:

"(6) A—If the adoptee is a minor or an adult who has been adjudicated incompetent, a description and estimate of the value of any property of the adoptee."

SECTION 3. G.S. 48-2-401(a) reads as rewritten:

"(a) No later than 30 days after a petition for adoption is filed pursuant to Part 3 of this Article, the petitioner shall initiate service of~~serve~~ notice of the filing on the persons required to receive notice under subsections (b), (c), and (d) of this section."

SECTION 4. G.S. 48-3-205(d) reads as rewritten:

"(d) The Division shall develop and make available forms designed to collect the information described in subsection (a) of this section. However, forms reasonably equivalent to those provided by the Division may be substituted."

SECTION 5. G.S. 48-3-303(c)(12) reads as rewritten:

"(12) The agency preparing the preplacement assessment may redact from the preplacement assessment provided to a placing parent or guardian detailed information reflecting the prospective adoptive parent's income and financial account balances and social security numbers, and detailed information about the prospective adoptive parent's extended family members, including surnames, names of employers, names of schools attended, social security numbers, telephone numbers and addresses, and other similarly detailed information about extended family members obtained under subsections (b) and (c) of this section."

SECTION 6. G.S. 48-3-602 reads as rewritten:

"§ 48-3-602. Consent of incompetent parents.

If a parent as described in G.S. 48-3-601 has been adjudicated incompetent, then the court shall appoint a guardian ad litem for that parent and, unless the child already has a guardian, a guardian ad litem for the child to make a full investigation as to whether the adoption should proceed. The investigation shall include an evaluation of the parent's current condition and any reasonable likelihood that the parent will be restored to competency, the relationship between the child and the incompetent parent, alternatives to adoption, and any other relevant fact or circumstance. If the court determines after a hearing on the matter that it will be in the best interest of the child for the adoption to proceed, the court shall order the guardian ad litem of the parent to execute ~~a consent~~ for that ~~parent~~ parent a consent as provided in this Part or a relinquishment as provided in Part 7 of this Article."

SECTION 7. G.S. 48-3-608(b) reads as rewritten:

"(b) In a direct placement, if:

- (1) A preplacement assessment is required, and
- (2) Placement occurs before the preplacement assessment is given to the parent or guardian who is placing the minor,

then that individual's time under subsection (a) of this section to revoke any consent previously given shall be either five business days after the date the individual receives the preplacement assessment prepared substantially in conformance with the requirements of G.S. 48-3-303, or the remainder of the time provided in subsection (a) of this section, whichever is longer. The date of receipt is the earlier of the date of actual receipt or the date established pursuant to G.S. 48-3-307."

SECTION 8. G.S. 48-3-707(a) reads as rewritten:

"(a) A relinquishment shall become void ~~if~~ if any of the following occur:

- (1) Before the entry of the adoption decree, the individual who executed the relinquishment establishes by clear and convincing evidence that it was obtained by fraud or duress.

- (2) Before placement with a prospective adoptive parent occurs, the agency and the person relinquishing the minor agree to rescind the relinquishment.
- (3) After placement with a prospective adoptive parent occurs, but before the entry of the adoption decree, the agency, the person relinquishing the minor, and the prospective adoptive parent agree to rescind the relinquishment."

SECTION 9. G.S. 48-9-109(1) reads as rewritten:

- "(1) An employee of a court, agency, or any other person from:
- a. Inspecting permanent, confidential, or sealed records, other than records maintained by the State Registrar, for the purpose of discharging any obligation under this Chapter.
 - b. Disclosing the name of the court where a proceeding for adoption occurred, or the name of an agency that placed an adoptee, to an individual described in G.S. 48-9-104(a) who can verify his or her identity.
 - c. Disclosing or using information contained in permanent and sealed records, other than records maintained by the State Registrar, for statistical or other research purposes as long as the disclosure will not result in identification of a person who is the subject of the information and subject to any further conditions the Department may reasonably impose."

SECTION 10. This act becomes effective October 1, 2012, and applies to actions filed on or after that date.

In the General Assembly read three times and ratified this the 7th day of June, 2012.

Became law upon approval of the Governor at 4:49 p.m. on the 11th day of June, 2012.

Session Law 2012-17

H.B. 493

AN ACT AMENDING THE LAWS RELATED TO LANDLORD TENANT RELATIONSHIPS AND ESTABLISHING A PROCESS WHEREBY A LANDLORD MAY REMOVE FROM A RESIDENTIAL DWELLING UNIT TANGIBLE PERSONAL PROPERTY BELONGING TO A DECEASED TENANT AFTER FILING AN AFFIDAVIT WITH THE CLERK OF COURT IN THE COUNTY IN WHICH THE RESIDENTIAL DWELLING UNIT IS LOCATED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-34.1 reads as rewritten:

"§ 42-34.1. **Rent pending execution of judgment; post bond pending appeal.**

(a) If the judgment in district court is against the defendant appellant, it shall be sufficient to stay execution of the judgment during the 30-day time period for taking an appeal provided for in Rule 3 of the North Carolina Rules of Appellate Procedure if the defendant appellant posts a bond as provided in G.S. 42-34(b), and no additional security under G.S. 1-292 is required. If the defendant appellant fails to make rental payments as provided in the undertaking within five days of the day rent is due under the terms of the residential rental agreement, the clerk of superior court shall, upon application of the plaintiff appellee, immediately issue a writ of possession, and the sheriff shall dispossess the defendant appellant as provided in G.S. 42-36.2.

(a1) If the judgment in district court is against the defendant appellant and the defendant appellant does not appeal the judgment, the defendant appellant shall pay rent to the plaintiff for the time the defendant appellant remains in possession of the premises after the judgment is given. Rent shall be prorated if the judgment is executed before the day rent would become due under the terms of the lease. The clerk of court shall disperse any rent in arrears paid by the

defendant appellant in accordance with a stipulation executed by all parties or, if there is no stipulation, in accordance with the judge's order.

(b) If the judgment in district court is against the defendant appellant and the defendant appellant appeals the judgment, it shall be sufficient to stay execution of the judgment if the defendant appellant posts a bond as provided in ~~G.S. 42-34(b)~~, G.S. 42-34(b), and no additional security under G.S. 1-292 is required. If the defendant appellant fails to perfect the appeal or the appellate court upholds the judgment of the district court, the execution of the judgment shall proceed. The clerk of court shall not disperse any rent in arrears paid by the defendant appellant until all appeals have been resolved."

SECTION 2.(a) G.S. 42-25.9(d) reads as rewritten:

"(d) If any tenant abandons personal property of ~~five hundred dollar (\$500.00)~~ seven hundred fifty dollar (\$750.00) value or less in the demised premises, or fails to remove such property at the time of execution of a writ of possession in an action for summary ejectment, the landlord may, as an alternative to the procedures provided in G.S. 42-25.9(g), 42-25.9(h), or 42-36.2, deliver the property into the custody of a nonprofit organization regularly providing free or at a nominal price clothing and household furnishings to people in need, upon that organization agreeing to identify and separately store the property for 30 days and to release the property to the tenant at no charge within the 30-day period. A landlord electing to use this procedure shall immediately post at the demised premises a notice containing the name and address of the property recipient, post the same notice for 30 days or more at the place where rent is received, and send the same notice by first-class mail to the tenant at the tenant's last known address. Provided, however, that the notice shall not include a description of the property."

SECTION 2.(b) G.S. 42-25.9(h) reads as rewritten:

"(h) If the total value of all property remaining on the premises at the time of execution of a writ of possession in an action for summary ejectment is less than ~~one hundred dollars (\$100.00)~~, five hundred dollars (\$500.00), the property shall be deemed abandoned five days after the time of execution, and the landlord may throw away or dispose of the property. Upon the tenant's request prior to the expiration of the five-day period, the landlord shall release possession of the property to the tenant during regular business hours or at a time agreed upon."

SECTION 3. G.S. 42-26 reads as rewritten:

"§ 42-26. **Tenant holding over may be dispossessed in certain cases.**

(a) Any tenant or lessee of any house or land, and the assigns under the tenant or legal representatives of such tenant or lessee, who holds over and continues in the possession of the demised premises, or any part thereof, without the permission of the landlord, and after demand made for its surrender, may be removed from such premises in the manner hereinafter prescribed in any of the following cases:

- (1) When a tenant in possession of real estate holds over after his term has expired.
- (2) When the tenant or lessee, or other person under him, has done or omitted any act by which, according to the stipulations of the lease, his estate has ceased.
- (3) When any tenant or lessee of lands or tenements, who is in arrear for rent or has agreed to cultivate the demised premises and to pay a part of the crop to be made thereon as rent, or who has given to the lessor a lien on such crop as a security for the rent, deserts the demised premises, and leaves them unoccupied and uncultivated.

(b) An arrearage in costs owed by a tenant for water or sewer services pursuant to G.S. 62-110(g) shall not be used as a basis for termination of a lease under this Chapter. Any payment to the landlord shall be applied first to the rent owed and then to charges for water or sewer service, unless otherwise designated by the tenant.

(c) In an action for ejectment based upon G.S. 42-26(a)(2), the lease may provide that the landlord's acceptance of partial rent or partial housing subsidy payment does not waive the tenant's breach for which the right of reentry was reserved, and the landlord's exercise of such a provision does not constitute a violation of Chapter 75 of the General Statutes."

SECTION 4. G.S. 42-51 reads as rewritten:

"§ 42-51. **Permitted uses of the deposit.**

(a) Security deposits for residential dwelling units shall be permitted only for the following:

- (1) The tenant's possible nonpayment of rent and costs for water or sewer services provided pursuant to ~~G.S. 62-110(g)~~, G.S. 62-110(g).
- (2) ~~damage~~ Damage to the premises, including damage to or destruction of smoke detectors or carbon monoxide detectors.
- (3) ~~nonfulfillment of rental period~~, Damages as the result of the nonfulfillment of the rental period, except where the tenant terminated the rental agreement under G.S. 42-45, G.S. 42-45.1, or because the tenant was forced to leave the property because of the landlord's violation of Article 2A of the General Statutes or was constructively evicted by the landlord's violation of G.S. 42-42(a).
- (4) ~~any~~ Any unpaid bills that become a lien against the demised property due to the tenant's ~~occupancy~~, occupancy.
- (5) The costs of re-renting the premises after breach by the tenant, including any reasonable fees or commissions paid by the landlord to a licensed real estate broker to re-rent the premises.
- (6) The costs of removal and storage of the tenant's property after a summary ejectment ~~proceeding or proceeding~~.
- (7) ~~court costs in connection with terminating a tenancy~~. Court costs.
- (8) Any fee permitted by G.S. 42-46.

(b) The security deposit shall not exceed an amount equal to two weeks' rent if a tenancy is week to week, one and one-half months' rent if a tenancy is month to month, and two months' rent for terms greater than month to month. These deposits must be fully accounted for by the landlord as set forth in G.S. 42-52."

SECTION 5. G.S. 42A-11(b) reads as rewritten:

"(b) The vacation rental agreement shall contain provisions separate from the requirements of subsection (a) of this section which shall describe the following as permitted or required by this Chapter:

- (1) The manner in which funds shall be received, deposited, and disbursed in advance of the tenant's occupancy of the property.
- (2) Any processing fees permitted under G.S. 42A-17(c).
- (2a) Any cleaning fee permitted under G.S. 42A-17(d).
- (3) The rights and obligations of the landlord and tenant under G.S. 42A-17(b).
- (4) The applicability of expedited eviction procedures.
- (5) The rights and obligations of the landlord or real estate broker and the tenant upon the transfer of the property.
- (6) The rights and obligations of the landlord or real estate broker and the tenant under G.S. 42A-36.
- (7) Any other obligations of the landlord and tenant."

SECTION 6. G.S. 42A-17 is amended by adding a new subsection to read:

"(d) A vacation rental agreement may include a cleaning fee, the amount of which shall be provided in the agreement, reasonably calculated to cover the costs of cleaning the residential property upon the termination of the tenancy."

SECTION 7. Article 25 of Chapter 28A of the General Statutes is amended by adding a new section to read as follows:

§ 28A-25-1.2. Removal of tangible personal property by landlord after death of residential tenant.

(a) When a decedent who is the sole occupant of a dwelling unit dies leaving tangible personal property in the dwelling unit, the landlord may take possession of the property upon the filing of an affidavit that complies with the provisions of subsection (b) of this section if all of the following conditions have been met:

- (1) At least 10 days has elapsed from the date the paid rental period for the dwelling unit has expired.
- (2) No personal representative, collector, or receiver has been appointed for the decedent's estate under the provisions of this Chapter, Chapter 28B, or Chapter 28C of the General Statutes in the county in which the dwelling unit is located.
- (3) No affidavit related to the decedent's estate has been filed under the provisions of G.S. 28A-25-1 or G.S. 28A-25-1.1 in the county in which the dwelling unit is located.

(b) The affidavit required by subsection (a) of this section shall be on a form approved by the Administrative Office of the Courts and supplied by the clerk of court. The affidavit shall state all of the following:

- (1) The name and address of the affiant and the fact that the affiant is the lessor of the dwelling unit.
- (2) The name of the decedent and the fact that the decedent was the lessee and sole occupant of the dwelling unit and died leaving tangible personal property in the dwelling unit. The affiant shall attach to the affidavit a copy of the decedent's death certificate.
- (3) The address of the dwelling unit.
- (4) The date of the decedent's death.
- (5) The date the paid rental period expired and the fact that at least 10 days has elapsed since that date.
- (6) The affiant's good faith estimate of the value of the tangible personal property remaining in the dwelling unit. The affiant shall attach to the affidavit an inventory of the property which shall include, at a minimum, the categories of furniture, clothing and accessories, and miscellaneous items.
- (7) That no personal representative, collector, or receiver has been appointed for the decedent's estate under the provisions of this Chapter, Chapter 28B, or Chapter 28C of the General Statutes in the county in which the dwelling unit is located and that no affidavit has been filed in the county under the provisions of G.S. 28A-25-1 or G.S. 28A-25-1.1.
- (8) The name of the person identified in the rental application, lease agreement, or other landlord document as the authorized person to contact in the event of the death or emergency of the tenant; that the affiant has made a good faith attempt to contact that person to urge that action be taken to administer the decedent's estate; and that either the affiant was unsuccessful in contacting the person or, if contacted, the person has not taken action to administer the decedent's estate. The affiant shall state the efforts made to contact the person identified in the rental application, lease agreement, or other landlord document.

(c) The affidavit shall be filed in the office of the clerk of court in the county in which the dwelling unit is located. The affidavit shall be filed by the clerk upon the landlord's payment of the fee of thirty dollars (\$30.00) and shall be indexed in the index to estates. The landlord shall mail a copy of the affidavit to the person identified in the rental application, lease agreement, or other landlord document as the authorized person to contact in the event of the death or emergency of the tenant. If no contact person is identified in the rental application, lease agreement, or other landlord document, the landlord shall cause notice of the filing of the affidavit to be posted at the door of the landlord's primary rental office or the place where the landlord conducts business and at the county courthouse in the area designated by the clerk for the posting of notices.

(d) The filing of an affidavit that complies with the provisions of subsection (b) of this section shall be sufficient to require the transfer of the property remaining in the decedent's dwelling unit to the landlord. Upon the transfer, the landlord may remove the property from the dwelling unit and deliver it for storage to any storage warehouse in the county in which the dwelling unit is located or in an adjoining county if no storage warehouse is located in that county. The landlord may also store the property in the landlord's own storage facility. Notwithstanding any provision of Chapter 42 of the General Statutes, after removing the property from the dwelling unit as provided in this subsection, the landlord shall be in possession of the dwelling unit and may let the unit as the landlord deems fit.

(e) If, at least 90 days after the landlord filed the affidavit required by subsection (a) of this section, no personal representative, collector, or receiver has been appointed under the provisions of this Chapter, Chapter 28B, or Chapter 28C of the General Statutes in the county in which the dwelling unit is located and no affidavit has been filed in the county under the provisions of G.S. 28A-25-1 or G.S. 28A-25-1.1, the landlord may take any of the following actions related to the decedent's property:

- (1) Sell the property as provided in subsection (f) of this section.
- (2) Deliver the property into the custody of a nonprofit organization regularly providing free, or at a nominal price, clothing and household furnishings to people in need for disposition in the normal course of the organization's operations. The organization shall not be liable to anyone for the disposition of the property.

(f) If the landlord delivers the property to a nonprofit organization as authorized in subdivision (2) of subsection (e) of this section, the landlord shall provide an accounting to the clerk stating the nature of the action and the date on which the action was taken. A landlord who elects to sell the property as authorized in subdivision (1) of subsection (e) of this section may do so at a public or private sale. Whether the sale is public or private, the landlord shall, at least seven days prior to the day of sale, give written notice to the clerk and post written notice of the sale in the area designated by the clerk for the posting of notices and at the door of the landlord's primary rental office or the place where the landlord conducts business stating the date, time, and place of the sale, and that any surplus of proceeds from the sale, after payment of unpaid rents, damages, packing and storage fees, filing fees, and sale costs shall be delivered to the clerk. The landlord may apply the proceeds of the sale to the unpaid rents, damages, packing and storage fees, filing fees, and sale costs. Any surplus from the sale shall be paid to the clerk, and the landlord shall provide an accounting to the clerk showing the manner in which the proceeds of the sale were applied. The clerk shall administer the funds in the same manner as provided in G.S. 28A-25-6.

(g) If, at any time after the landlord files the affidavit required by subsection (a) of this section but before the landlord takes any of the actions authorized in subsection (e) of this section, the landlord is presented with letters of appointment or another document issued by a court indicating that a personal representative, collector, or receiver has been appointed for the decedent's estate or an affidavit filed under the provisions of G.S. 28A-25-1 or G.S. 28A-25-1.1, the landlord shall deliver the decedent's property to the personal representative, collector, or receiver appointed or to the person who filed the affidavit.

(h) Notwithstanding the provisions of subsections (a) through (g) of this section, if the decedent dies leaving tangible personal property of five hundred dollar (\$500.00) value or less in the dwelling unit, the landlord may, without filing an affidavit, deliver the property into the custody of a nonprofit organization regularly providing free, or at a nominal price, clothing and household furnishings to people in need upon that organization agreeing to identify and separately store the property for 30 days and to release the property to a person authorized by law to act on behalf of the decedent at no charge within the 30-day period. Prior to delivering the property to the nonprofit organization, the landlord shall prepare an inventory of the property which shall include, at a minimum, the categories of furniture, clothing and accessories, and miscellaneous items. A landlord electing to act under this subsection shall immediately send a notice by first-class mail containing the name and address of the property recipient and a copy of the inventory to the person identified in the rental application, lease agreement, or other landlord document as the authorized person to contact in the event of the death or emergency of the tenant and shall post the same notice for 30 days or more at the door of the landlord's primary rental office or the place where the landlord conducts business. The notice posted shall not include an inventory of the property. Any nonprofit organization agreeing to receive personal property under this subsection shall not be liable to the decedent's estate for the disposition of the property, provided that the property has been separately identified and stored for release to a person authorized by law to act on behalf of the decedent for a period of 30 days.

(i) If any lessor, landlord, or agent seizes possession of the decedent's tangible personal property in any manner not in accordance with the provisions of this section, any person authorized by law to act on behalf of the decedent shall be entitled to recover possession of the property or compensation for the value of the property and, in any action brought by any person authorized by law to act on behalf of the decedent, the landlord shall be liable to the decedent's estate for actual damages, but not including punitive damages, treble damages, or damages for emotional distress.

(j) The procedure authorized in this section may be used as an alternative to a summary ejectment action under Chapter 42 of the General Statutes. A landlord shall, in his or her discretion, determine whether to proceed under the provisions of this section or under Chapter 42 of the General Statutes."

SECTION 8. G.S. 42-25.7 reads as rewritten:

"§ 42-25.7. Distress and distraint not permitted.

It is the public policy of the State of North Carolina that distress and distraint are prohibited and that landlords of residential rental property shall have rights concerning the personal property of their residential tenants only in accordance with G.S. 42-25.9(d), 42-25.9(g), 42-25.9(h), ~~or 42-36.2-42-36.2, or 28A-25-1.2.~~"

SECTION 9. Article 3 of Chapter 42 of the General Statutes is amended by adding a new section to read as follows:

"§ 42-36.3. Death of residential tenant; landlord may file affidavit to remove personal property from the dwelling unit.

Notwithstanding any other provision of this Chapter, when a decedent who is the sole occupant of a dwelling unit dies leaving tangible personal property in the dwelling unit, the landlord may, instead of commencing a summary ejectment action, file an affidavit as provided in G.S. 28A-25-1.2."

SECTION 10. This act becomes effective October 1, 2012, and applies to all actions for summary ejectment filed on and after that date, and to personal property that was owned by a tenant who dies on or after that date.

In the General Assembly read three times and ratified this the 7th day of June, 2012.

Became law upon approval of the Governor at 4:51 p.m. on the 11th day of June, 2012.

Session Law 2012-18

H.B. 707

AN ACT TO ELIMINATE OBSOLETE REGISTER OF DEEDS PROVISIONS FROM THE GENERAL STATUTES, TO AMEND LOCAL AGENCY CHARGES FOR VITAL RECORDS SEARCHES, TO CLARIFY THE LAW GOVERNING PERSONS HOLDING THE POWER TO DIRECT TRUSTEES, TRUST PROTECTORS, AND DIRECTED TRUSTEES AND OTHER FIDUCIARIES, TO MAKE TECHNICAL CHANGES IN THE LAW GOVERNING TRUSTS AND DECEDENTS' ESTATES, AND TO AUTHORIZE THE REVISOR OF STATUTES TO PRINT OFFICIAL COMMENTS TO THE UNIFORM TRUST CODE.

The General Assembly of North Carolina enacts:

PART I. OBSOLETE REGISTER OF DEEDS PROVISIONS

SECTION 1.1. G.S. 9-4 reads as rewritten:

"§ 9-4. Preparation and custody of list.

As the jury list is prepared, the name and address of each qualified person selected for the list shall be recorded and alphabetically arranged. ~~written on a separate card. The cards shall then be alphabetized and permanently numbered, the numbers running consecutively with a different number on each card. These cards shall constitute the jury list for the county. They~~ The list shall be filed with the office of the clerk of court, register of deeds of the county, together with a statement of the sources used and procedures followed in preparing the list. The list shall be kept under lock and key, but shall be available for public inspection during regular office hours. ~~The register of deeds~~ clerk of court may elect to store an electronic copy of the jury list for the county."

SECTION 1.2. G.S. 45-16 is repealed.

SECTION 1.3. G.S. 45-21.17A(b) reads as rewritten:

"§ 45-21.17A. Requests for copies of notice.

...
(b) Register of Deeds' Duties. – Upon the filing for record of such request, the register of deeds shall index in the general index of grantors the names of the trustors (mortgagors) recited therein, and the names of the persons requesting copies, with a reference in the index of the book and page of the recorded security instrument to which the request refers. ~~refers; or upon the filing for record of such request, the register of deeds may, instead of indexing such request on the general index of grantors, stamp upon the face of the security instrument referred to in the request the book and page of each request for notice thereunder."~~

SECTION 1.4. G.S. 47-14(e) reads as rewritten:

"§ 47-14. Register of deeds to verify the presence of proof or acknowledgement and register instruments and electronic documents; order by judge; instruments to which register of deeds is a party.

...
(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. ~~The clerk of superior court of the county of registration shall examine any instrument presented for registration. If it appears that the execution and acknowledgment are in due form, the clerk shall so certify and the instrument shall then be recorded in the office of the register of deeds."~~

SECTION 1.5. G.S. 47C-2-101(a) reads as rewritten:

"§ 47C-2-101. Execution and recordation of declaration.

(a) A declaration creating a condominium shall be executed in the same manner as a deed, shall be recorded in every county in which any portion of the condominium is located. ~~located, and shall be indexed in the Grantee index in the name of the condominium and in the Grantor index in the name of each person executing the declaration."~~

SECTION 1.6. G.S. 47C-2-109(a) reads as rewritten:**"§ 47C-2-109. Plats and plans.**

(a) The declarant shall file with the register of deeds in each county where the condominium is located the condominium's plat or plan prepared in accordance with this section. The plat or plan shall be considered a part of the declaration but shall be recorded separately, and the declaration shall refer by number to the file where such plat or plan is recorded. ~~Each plat or plan shall be kept by the register of deeds in a separate file, indexed in the same manner as a conveyance entitled to be recorded, numbered serially in the order of receipt, and designated "Condominium" with the name of the building, if any, and shall contain a reference to the book and page numbers and date of the recording of the declaration. Each~~ plat or plan must contain a certification by an architect licensed under the provisions of Chapter 83A of the General Statutes or an engineer registered under the provisions of Chapter 89C of the General Statutes that it contains all of the information required by this section."

SECTION 1.7. G.S. 47F-2-101 reads as rewritten:**"§ 47F-2-101. Creation of the planned community.**

A declaration creating a planned community shall be executed in the same manner as a ~~deed, deed and~~ shall be recorded in every county in which any portion of the planned community is located. ~~located, and shall be indexed in the Grantee index in the name of the planned community and the association and in the Grantor index in the name of each person executing the declaration."~~

SECTION 1.8. G.S. 47F-2-117(c) reads as rewritten:**"§ 47F-2-117. Amendment of declaration.**

...
(c) Every amendment to the declaration shall be recorded in every county in which any portion of the planned community is located and is effective only upon recordation. ~~An amendment shall be indexed in the Grantee index in the name of the planned community and the association and in the Grantor index in the name of each person executing the amendment."~~

SECTION 1.9. G.S. 58-72-50 reads as rewritten:**"§ 58-72-50. Approval, acknowledgment and custody of bonds.**

The approval of all official bonds taken or renewed by the board of commissioners shall be recorded by the clerk to the board. Every such bond shall be acknowledged by the parties thereto or proved by a subscribing witness, before the chairman of the board of commissioners, or before the clerk of the superior court, ~~registered in the register's office in a separate book to be kept for the registration of official bonds,~~ and the original bond, with the approval of the commissioners endorsed thereon and certified by their chairman, shall be deposited with the clerk of the superior court for safekeeping. Provided that an official bond executed as surety by a surety company authorized to do business in this State need not be acknowledged upon behalf of the surety when such bond is executed under seal in the name of the surety by an agent or attorney-in-fact by authority of a power of attorney duly recorded in the office of the register of deeds of such county. ~~county and such bond may be recorded by the register of deeds without an order of probate entered by the clerk of the superior court."~~

SECTION 1.10. G.S. 68-18.1 reads as rewritten:**"§ 68-18.1. Notice when owner not known.**

If the owner of the impounded livestock is not known or cannot be found, the impounder shall inform the ~~register of deeds that he has impounded the livestock and provide the register of deeds with a description of the livestock. The register of deeds shall record the information in a book kept for that purpose, and shall charge the impounder a fee of ten dollars (\$10.00).~~ The register of deeds shall immediately publish a notice of the impoundment of the animal by posting a notice on the courthouse door. The notice on the courthouse door shall be posted for 30 days, and shall contain sheriff of the county in which the livestock was found of the impoundment, giving a full description of the livestock impounded, including all marks or brands on the livestock, and shall state when and where the animal was taken up. ~~The impounder shall publish once, in some newspaper published and distributed in the county, a~~

~~notice containing the same information as the notice posted by the register of deeds. The fees for publishing the notice shall be paid by the impounder."~~

SECTION 1.11. G.S. 80-16 reads as rewritten:

"§ 80-16. How adopted, registered and published.

Every such dealer desiring to adopt a trademark may do so pursuant to the provisions of Article 1 of Chapter 80 of the General Statutes. Nothing in this section invalidates or otherwise alters the legal effect of any timber mark registered according to the law in effect at the time of registration. ~~by the execution of a writing in form and effect as follows:~~

~~Notice is hereby given that I (or we, etc., as the case may be) have adopted the following trademark, to be used in my (or our, etc.) business as timber dealer (or dealers), to wit: (Here insert the words, letters, figures, etc., constituting the trademark, or if it be any device other than words, letters or figures, insert a facsimile thereof).~~

~~Dated this ____ day of ____, ____ A ____ B ____~~

~~Such writing shall be acknowledged or proved for record in the same manner as deeds are acknowledged or proved, and shall be registered in the office of the register of deeds of the county in which the principal office or place of business of such timber dealer may be, in a book to be kept for that purpose marked Registry of Timber Marks, also in office of Secretary of State, and a copy thereof shall be published at least once in each week for four successive weeks in some newspaper printed in such county, or if there be no such newspaper printed therein, then in some newspaper of general circulation in such county."~~

SECTION 1.12. G.S. 80-33 through G.S. 80-37 are repealed.

SECTION 1.13. G.S. 80-38 reads as rewritten:

"§ 80-38. When transfer of farm carries name.

When any owner of a farm, the name of which has been recorded in the office of the register of deeds of the county in which the farm is located according to the law in effect at the time of recording, ~~as provided in this Article,~~ transfers by deed or otherwise the whole of such farm, such transfer may include the registered name thereof; but if the owner shall transfer only a portion of such farm, then, in the event, the registered name thereof shall not be transferred to the purchaser unless so stated in the deed or conveyance."

SECTION 1.14. G.S. 80-39 reads as rewritten:

"§ 80-39. Cancellation of registry; fee.

When any owner of a ~~registered farm name~~ name that has been registered in the office of the register of deeds of the county in which the farm is located desires to cancel the registered name thereof, such owner may record a duly signed and acknowledged instrument to that effect in the register of deeds real estate records. ~~he shall state on the margin of the record of the register of such name the following: "This name is canceled and I hereby release all rights thereunder," which shall be signed by the person canceling such name, and attested by the register of deeds. For such latter service the register of deeds shall charge a fee of twenty five cents (25¢), which shall be paid to the county treasurer as other fees are paid to the county treasurer by him."~~

SECTION 1.15. G.S. 87-110(d) reads as rewritten:

"§ 87-110. Recording requirements for utility owners.

...
(d) ~~Upon receipt of the documents recorded pursuant to subsections (a), (b), or (c) of this section, the Register of Deeds shall place the documents in the Grantor's Index under the heading "Underground Utilities". The registration fee imposed by Chapter 161 of the General Statutes shall apply to these documents."~~

SECTION 1.16. G.S. 104-7(c) reads as rewritten:

"§ 104-7. Acquisition of lands by the United States for customhouses, courthouses, post offices, forts, arsenals, or armories; cession of jurisdiction; exemption from taxation.

...

(c) The jurisdiction ceded shall not vest until the United States has acquired title to the land by purchase, condemnation, or otherwise; accepted the cession of jurisdiction in writing; and filed a certified copy of the acceptance in the office of the register of deeds in the county or counties in which the land is located. ~~The acceptance of jurisdiction shall be made by an authorized official of the United States and shall include a precise description of the land involved and a statement of the extent to which cession of jurisdiction is accepted. The register of deeds shall record the acceptance of jurisdiction and index it in both the grantor and the grantee index under the name of the United States and, if title to the land over which jurisdiction is ceded is vested in any entity other than the United States, then the register of deeds shall also index the acceptance of jurisdiction in both the grantor and the grantee index under the name of that entity.~~"

SECTION 1.17. G.S. 130A-301 reads as rewritten:

"§ 130A-301. Recordation of permits for disposal of waste on land and Notice of Open Dump.

(a) Whenever the Department approves a permit for a sanitary landfill or a facility for the disposal of hazardous waste on land, the owner of the facility shall be granted both an original permit and a copy certified by the Secretary. The permit shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance.

(b) The owner of a facility granted a permit for a sanitary landfill or a facility for the disposal of hazardous waste on land shall file the certified copy of the permit in the office of the register of deeds in the county or counties in which the land is located.

~~(c) The register of deeds shall record the certified copy of the permit and index it in the grantor index under the name of the owner of the land.~~

(d) The permit shall not be effective unless the certified copy is filed as required under subsection (b) of this section.

(e) When a sanitary landfill or a facility for the disposal of hazardous waste on land is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section in no smaller type than that used in the body of the deed or instrument a statement that the property has been used as a sanitary landfill or a disposal site for hazardous waste and a reference by book and page to the recordation of the permit.

(f) When the Department determines that an open dump exists, the Department shall notify the owner or operator of the open dump of applicable requirements to take remedial action at the site of the open dump to protect public health and the environment. If the owner or operator fails to take remedial action, the Department may record a Notice of Open Dump in the office of the register of deeds in the county or counties where the open dump is located. Not less than 30 days before recording the Notice of Open Dump, the Department shall notify the owner or operator of its intention to file a Notice of Open Dump. The Department may notify the owner or operator of its intention to file a Notice of Open Dump at the time it notifies the owner or operator of applicable requirements to take remedial action. An owner or operator may challenge a decision of the Department to file a Notice of Open Dump by filing a contested case under Article 3 of Chapter 150B of the General Statutes. If an owner or operator challenges a decision of the Department to file a Notice of Open Dump, the Department shall not file the Notice of Open Dump until the contested case is resolved, but may file a notice of pending litigation under Article 11 of Chapter 1 of the General Statutes. This power is additional and supplemental to any other power granted to the Department. This subsection does not repeal or supersede any statute or rule requiring or authorizing record notice by the owner.

- (1) The Department shall file the Notice of Open Dump in the office of the register of deeds in substantially the following form:

"NOTICE OF OPEN DUMP

The Division of Waste Management of the North Carolina Department of Environment and Natural Resources has determined that an open dump exists on the property described below. The Department provides the following information regarding this open dump as a public service. This Notice is filed pursuant to G.S. 130A-301(f).

Name(s) of the record owner(s): _____

Description of the real property: _____

Description of the particular area where the open dump is located: _____

Any person who has questions regarding this Notice should contact the Division of Waste Management of the North Carolina Department of Environment and Natural Resources. The contact person for this Notice is:

_____ who may be reached by telephone at _____ or by mail at _____. Requests for inspection and copying of public records regarding this open dump may be directed to _____ who may be reached by telephone at _____ or by mail at _____.

Secretary of Environment and Natural Resources by _____

Date: _____."

- (2) The description of the particular area where the open dump is located shall be based on the best information available to the Department but need not be a survey plat that meets the requirements of G.S. 47-30 unless a survey plat that meets those requirements and that is approved by the Department is furnished by the owner or operator.
- (3) ~~The register of deeds shall record the Notice of Open Dump and index it in the grantor index under the name of the record owner or owners. After recording the Notice of Open Dump, the register of deeds shall return the Notice of Open Dump to the Department in care of the person listed as the contact person in the Notice of Open Dump.~~
- (4) When the owner removes all solid waste from the open dump site to the satisfaction of the Department, the Department shall file a Cancellation of the Notice of Open Dump. The Cancellation shall be in a form similar to the original Notice of Open Dump and shall state that all the solid waste that constituted the open dump has been removed to the satisfaction of the Department. ~~The Cancellation shall be filed and indexed in the same manner as the original Notice of Open Dump."~~

SECTION 1.18. G.S. 130A-310.8 reads as rewritten:

"§ 130A-310.8. Recordation of inactive hazardous substance or waste disposal sites.

(a) After determination by the Department of the existence and location of an inactive hazardous substance or waste disposal site, the owner of the real property on which the site is located, within 180 days after official notice to the owner to do so, shall submit to the Department a survey plat of areas designated by the Department that has been prepared and certified by a professional land surveyor, and entitled "NOTICE OF INACTIVE HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE". Where an inactive hazardous substance or waste disposal site is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

- (1) The location and dimensions of the disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.
- (2) The type, location, and quantity of hazardous substances known by the owner of the site to exist on the site.
- (3) Any restrictions approved by the Department on the current or future use of the site.

(b) After the Department approves and certifies the Notice, the owner of the site shall file the certified copy of the Notice in the register of deeds' office in the county or counties in which the land is located within 15 days of the date on which the owner receives approval of the Notice from the Department.

~~(c) The register of deeds shall record the certified copy of the Notice and index it in the grantor index under the names of the owners of the lands.~~

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file such Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this section, he may recover the reasonable costs thereof from any responsible party.

(e) When an inactive hazardous substance or waste disposal site is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been used as a hazardous substance or waste disposal site and a reference by book and page to the recordation of the Notice.

(f) A Notice of Inactive Hazardous Substance or Waste Disposal Site filed pursuant to this section may, at the request of the owner of the land, be cancelled by the Secretary after the hazards have been eliminated. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the hazards have been eliminated and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. ~~The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry.~~

(g) Recordation under this section is not required for any inactive hazardous substance or waste disposal site that is undergoing voluntary remedial action pursuant to this Part unless the Secretary determines that either:

- (1) A concentration of a hazardous substance or hazardous waste that poses a danger to public health or the environment will remain following implementation of the voluntary remedial action program.
- (2) The voluntary remedial action program is not being implemented in a manner satisfactory to the Secretary and in compliance with the agreement between the Secretary and the owner, operator, or other responsible party.

(h) The Secretary may waive recordation under this section with respect to any residential real property that is contaminated solely because a hazardous substance or hazardous waste migrated to the property from other property by means of groundwater flow if disclosure of the contamination is required under Chapter 47E of the General Statutes. An owner of residential real property whose recordation requirement is waived by the Secretary under this subsection and who fails to disclose contamination as required by Chapter 47E of the General Statutes is subject to both the penalties and remedies under this Chapter applicable to a

person who fails to comply with the recordation requirements of this section as though those requirements had not been waived and to the remedies available under Chapter 47E of the General Statutes."

SECTION 1.19. G.S. 130A-310.35 reads as rewritten:

"§ **130A-310.35. Notice of Brownfields Property; land-use restrictions in deed.**

(a) In order to reduce or eliminate the danger to public health or the environment posed by a brownfields property being addressed under this Part, a prospective developer who desires to enter into a brownfields agreement with the Department shall submit to the Department a proposed Notice of Brownfields Property. A Notice of Brownfields Property shall be entitled "Notice of Brownfields Property", shall include a survey plat of areas designated by the Department that has been prepared and certified by a professional land surveyor and that meets the requirements of G.S. 47-30, shall include a legal description of the brownfields property that would be sufficient as a description of the property in an instrument of conveyance, and shall identify all of the following:

- (1) The location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks.
- (2) The type, location, and quantity of regulated substances and contaminants known to exist on the brownfields property.
- (3) Any restrictions on the current or future use of the brownfields property or, with the owner's permission, other property that are necessary or useful to maintain the level of protection appropriate for the designated current or future use of the brownfields property and that are designated in the brownfields agreement. These land-use restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Where a brownfields property encompasses more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded.

(b) After the Department approves and certifies the Notice of Brownfields Property under subsection (a) of this section, a prospective developer who enters into a brownfields agreement with the Department shall file a certified copy of the Notice of Brownfields Property in the register of deeds' office in the county or counties in which the land is located. The prospective developer shall file the Notice of Brownfields Property within 15 days of the prospective developer's receipt of the Department's approval of the notice or the prospective developer's entry into the brownfields agreement, whichever is later.

~~(c) The register of deeds shall record the certified copy of the notice and index it in the grantor index under the names of the owners of the land, and, if different, also under the name of the prospective developer conducting the redevelopment of the brownfields property.~~

(d) When a brownfields property is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the brownfields property has been classified and, if appropriate, cleaned up as a brownfields property under this Part.

(e) A Notice of Brownfields Property filed pursuant to this section may, at the request of the owner of the land, be cancelled by the Secretary after the hazards have been eliminated. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the notice is recorded a statement that the hazards have been eliminated and request that the notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the notice and reference the plat book and page where the notice is recorded. ~~The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice of Brownfields Property and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice of Brownfields Property showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the~~

~~register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry.~~

(f) Any land-use restriction filed pursuant to this section shall be enforced by any owner of the land. Any land-use restriction may also be enforced by the Department through the remedies provided in Part 2 of Article 1 of this Chapter or by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be enforced by any unit of local government having jurisdiction over any part of the brownfields property by means of a civil action without the unit of local government having first exhausted any available administrative remedy. A land-use restriction may also be enforced by any person eligible for liability protection under this Part who will lose liability protection if the land-use restriction is violated. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this section shall abide by the land-use restriction.

(g) This section shall apply in lieu of the provisions of G.S. 130A-310.8 for brownfields properties remediated under this Part."

SECTION 1.20. G.S. 143-215.85A reads as rewritten:

"§ 143-215.85A. Recordation of oil or hazardous substance discharge sites.

(a) The owner of the real property on which a site is located that is subject to current or future use restrictions approved as provided in G.S. 143-215.84(f) shall submit to the Department a survey plat as required by this section within 180 days after the owner is notified to do so. The survey plat shall identify areas designated by the Department, shall be prepared and certified by a professional land surveyor, and shall be entitled "NOTICE OF OIL OR HAZARDOUS SUBSTANCE DISCHARGE SITE". Where an oil or hazardous substance discharge site is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

- (1) The location and dimensions of the disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.
- (2) The type, location, and quantity of oil or hazardous substances known to the owner of the site to exist on the site.
- (3) Any restrictions approved by the Department on the current or future use of the site.

(b) After the Department approves and certifies the Notice, the owner of the site shall file the certified copy of the Notice in the register of deeds office in the county or counties in which the land is located within 15 days of the date on which the owner receives approval of the Notice from the Department.

~~(c) The register of deeds shall record the certified copy of the Notice and index it in the grantor index under the names of the owners of the lands.~~

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this section, he may recover the reasonable costs thereof from any responsible party.

(e) When an oil or hazardous substance discharge site that is subject to current or future land-use restrictions under this section is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been used as an oil or hazardous substance discharge site and a reference by book and page to the recordation of the Notice.

(f) A Notice of Oil or Hazardous Substance Discharge Site filed pursuant to this section may, at the request of the owner of the land, be cancelled by the Secretary after the hazards have been eliminated. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the hazards have been eliminated and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. ~~The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry.~~

SECTION 1.21. G.S. 143-215.104M reads as rewritten:

"§ 143-215.104M. (Expires January 1, 2022 – see notes) Notice of Dry-Cleaning Solvent Remediation; land-use restrictions in deeds.

(a) Land-Use Restriction. – In order to reduce or eliminate the danger to public health or the environment posed by a dry-cleaning solvent contamination site, the owner of property upon which dry-cleaning solvent contamination has been discovered may file a Notice of Dry-Cleaning Solvent Remediation approved by the Commission identifying the site on which the contamination has been discovered and providing for current or future restrictions on the use of the property. If a petitioner requests that a contamination site be remediated to standards that require land-use restrictions, the owner of the property must file a Notice of Dry-Cleaning Solvent Remediation for the remediation agreement to become effective.

(b) Notice of Restriction. – A Notice of Dry-Cleaning Solvent Remediation shall include:

- (1) A survey plat of the contamination site that has been prepared and certified by a professional land surveyor and that meets the requirements of G.S. 47-30.
- (2) A legal description of the property that would be sufficient as a description in an instrument of conveyance.
- (3) A description of the location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks.
- (4) The type, location, and quantity of dry-cleaning solvent contamination known to exist on the property.
- (5) Any restrictions on the current or future use of the property or other property that are necessary to assure adequate protection of public health and the environment as provided in rules adopted pursuant to G.S. 143-215.104D(b)(3). These land-use restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Where a contamination site encompasses more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded.

(c) Recordation of Notice. – After the Commission approves and certifies the Notice of Dry-Cleaning Solvent Remediation under subsection (a) of this section, a certified copy of a Notice of Dry-Cleaning Solvent Remediation shall be filed in the office of the register of deeds of the county or counties in which the property described is located. The owner of the property shall file the Notice of Dry-Cleaning Solvent Remediation within 15 days of the property owner's receipt of the Commission's approval of the notice or the effective date of the dry-cleaning solvent remediation agreement, whichever is later. ~~The register of deeds shall record the certified copy of the Notice of Dry-Cleaning Solvent Remediation and index it in the grantor index under the names of the owners of the land.~~

(d) Notice of Transfer. – When property for which a Notice of Dry-Cleaning Solvent Remediation has been filed is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been contaminated with dry-cleaning solvent and, if appropriate, cleaned up under this Part.

(e) Cancellation of Notice. – A Notice of Dry-Cleaning Solvent Remediation filed pursuant to this Part may, at the request of the owner of the property subject to the Notice of Dry-Cleaning Solvent Remediation, be canceled by the Secretary after the risk to public health and the environment associated with the dry-cleaning solvent contamination and any other contaminants included in the dry-cleaning solvent remediation agreement has been eliminated as a result of remediation of the property. The Secretary shall forward notice of cancellation to the register of deeds of the county or counties where the Notice of Dry-Cleaning Solvent Remediation is recorded and request that the Notice of Dry-Cleaning Solvent Remediation be canceled. The notice of cancellation shall contain the names of the landowners as shown in the Notice of Dry-Cleaning Solvent Remediation. ~~The register of deeds shall record the notice of cancellation in the deed books and index it on the grantor index in the name of the landowner as shown in the Notice of Dry-Cleaning Solvent Remediation and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice of Dry-Cleaning Solvent Remediation showing the date of cancellation and the book and page where the notice of cancellation is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry.~~

(f) Enforcement. – Any restriction on the current or future use of property subject to a Notice of Dry-Cleaning Solvent Remediation filed pursuant to this section shall be enforced by any owner of the property or by any other potentially responsible party. Any land-use restriction may also be enforced by the Commission through the remedies provided in this Part or by means of a civil action in the superior court. The Commission may enforce any land-use restriction without first having exhausted any available administrative remedies. Restrictions also may be enforced by any unit of local government having jurisdiction over any part of the property by means of a civil action without the unit of local government having first exhausted any available administrative remedy. A land-use restriction may also be enforced by any person eligible for liability protection under this Part who will lose liability protection if the land-use restriction is violated. A restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of privity of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this section shall abide by the land-use restriction. Failure to submit an annual certification that land-use restrictions are properly recorded and followed shall result in a notice from the Commission to the property owner. The notice shall inform the person of the actions that need to be taken in order for the person to come into compliance and specify a date by which the person must comply, which shall not be less than 30 calendar days from the date the notice is mailed. Any person who fails to comply within the time specified shall then be subject to enforcement procedures as provided in this Part.

(g) Relation to Brownfields Notice. – Unless the Commission decertifies a previously certified facility or a previously certified abandoned site, this section shall apply in lieu of the provisions of Article 9 of Chapter 130A of the General Statutes and Parts 1 and 2 of Article 21A of Chapter 143 of the General Statutes for properties remediated under this Part."

SECTION 1.22. G.S. 143B-279.10 reads as rewritten:

"§ 143B-279.10. Recordation of contaminated sites.

(a) The owner of the real property on which a site is located that is subject to current or future use restrictions approved as provided in G.S. 143B-279.9(a) shall submit to the Department a survey plat as required by this section within 180 days after the owner is notified to do so. The survey plat shall identify areas designated by the Department, shall be prepared

and certified by a professional land surveyor, and shall be entitled "NOTICE OF CONTAMINATED SITE". Where a contaminated site is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

- (1) The location and dimensions of any disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.
- (2) The type, location, and quantity of contamination known to the owner of the site to exist on the site.
- (3) Any restriction approved by the Department on the current or future use of the site.

(b) The Department shall review the proposed Notice to determine whether the Notice meets the requirements of this section and rules adopted to implement this section, and shall provide the owner of the site with a notarized copy of the approved Notice. After the Department approves the Notice, the owner of the site shall file a notarized copy of the approved Notice in the register of deeds office in the county or counties in which the land is located within 15 days of the date on which the owner receives approval of the Notice from the Department.

~~(c) The register of deeds shall record the notarized copy of the approved Notice and index it in the grantor index under the names of the owners of the land.~~

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(e) When a contaminated site that is subject to current or future land-use restrictions is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property is a contaminated site and a reference by book and page to the recordation of the Notice.

(f) A Notice of Contaminated Site filed pursuant to this section shall, at the request of the owner of the land, be cancelled by the Secretary after the contamination has been eliminated or remediated to unrestricted use standards. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the contamination has been eliminated, or that the contamination has been remediated to unrestricted use standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. ~~The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry.~~

(g) This section does not apply to the cleanup pursuant to a remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes.

(h) The definitions set out in G.S. 143B-279.9 apply to this section."

SECTION 1.23. G.S. 143B-279.11 reads as rewritten:**"§ 143B-279.11. Recordation of residual petroleum from an underground storage tank.**

(a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this section. This section applies only to a cleanup pursuant to a remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes.

(b) The owner, operator, or other person responsible for a discharge or release of petroleum from an underground storage tank shall prepare and submit to the Department a proposed Notice that meets the requirements of this section. The proposed Notice shall be submitted to the Department (i) before the property is conveyed, or (ii) when the owner, operator, or other person responsible for the discharge or release requests that the Department issue a determination that no further action is required under the remedial action plan, whichever first occurs. The Notice shall be entitled "NOTICE OF RESIDUAL PETROLEUM". The Notice shall include a description that would be sufficient as a description in an instrument of conveyance of the (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. The Notice shall identify the location of any residual petroleum known to exist on the real property at the time the Notice is prepared. The Notice shall also identify the location of any residual petroleum known, at the time the Notice is prepared, to exist on other real property that is a result of the discharge or release. The Notice shall set out any restrictions on the current or future use of the real property that are imposed by the Secretary pursuant to G.S. 143B-279.9(b) to protect public health, the environment, or users of the property.

(c) If the contamination is located on more than one parcel or tract of land, the Department may require that the owner, operator, or other person responsible for the discharge or release prepare a composite map or plat that shows all parcels or tracts. If the contamination is located on one parcel or tract of land, the owner, operator, or other person responsible for the discharge or release may prepare a map or plat that shows the parcel but is not required to do so. A map or plat shall be prepared and certified by a professional land surveyor, shall meet the requirements of G.S. 47-30, and shall be submitted to the Department for approval. When the Department has approved a map or plat, it shall be recorded in the office of the register of deeds and shall be incorporated into the Notice by reference.

(d) The Department shall review the proposed Notice to determine whether the Notice meets the requirements of this section and rules adopted to implement this section and shall provide the owner, operator, or other person responsible for the discharge or release of petroleum from an underground storage tank with a notarized copy of the approved Notice. After the Department approves the Notice, the owner, operator, or other person responsible for the discharge or release of petroleum from an underground storage tank shall file a notarized copy of the approved Notice in the register of deeds office in the county or counties in which the real property is located (i) before the property is conveyed or (ii) within 30 days after the owner, operator, or other person responsible for the discharge or release receives notice from the Department that no further action is required under the remedial action plan, whichever first occurs. If the owner, operator, or other person responsible for the discharge or release fails to file the Notice as required by this section, any determination by the Department that no further action is required is void. The owner, operator, or other person responsible for the discharge or release, may record the Notice required by this section without the agreement of the owner of the real property. The owner, operator, or other person responsible for the discharge or release shall submit a certified copy of the Notice as filed in the register of deeds office to the Department.

(e) ~~The register of deeds shall record the notarized copy of the approved Notice and index it in the grantor index under the names of the owners of the real property.~~

(f) In the event that the owner, operator, or other person responsible for the discharge or release fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of the real property who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(g) A Notice filed pursuant to this section shall, at the request of the owner of the real property, be cancelled by the Secretary after the residual petroleum has been eliminated or remediated to unrestricted use standards. If requested in writing by the owner of the land, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the residual petroleum has been eliminated, or that the residual petroleum has been remediated to unrestricted use standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. ~~The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the real property as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record, the register of deeds shall not be required to make a marginal entry.~~

SECTION 1.24. G.S. 160A-400.6 reads as rewritten:

"§ 160A-400.6. **Required landmark designation procedures.**

As a guide for the identification and evaluation of landmarks, the commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Office of Archives and History. No ordinance designating a historic building, structure, site, area or object as a landmark nor any amendment thereto may be adopted, nor may any property be accepted or acquired by a preservation commission or the governing board of a municipality, until all of the following procedural steps have been taken:

...

- (6) Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the preservation commission in the office of the register of deeds of the county in which the landmark or landmarks are located. ~~Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the register of deeds office, and the preservation commission shall pay a reasonable fee for filing and indexing.~~ In the case of any landmark property lying within the zoning jurisdiction of a city, a second copy of the ordinance and all amendments thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and all amendments thereto shall be given to the city or county building inspector. The fact that a building, structure, site, area or object has been designated a landmark shall be clearly indicated on all tax maps maintained by the county or city for such period as the designation remains in effect.

...."

PART II. LOCAL AGENCY CHARGES FOR VITAL RECORDS SEARCHES

SECTION 2.1. G.S. 130A-93.1(a)(1) reads as rewritten:

"§ 130A-93.1. Fees for vital records copies or search; automation fund.

- (a) The State Registrar shall collect, process, and utilize fees for services as follows:
- (1) A fee not to exceed twenty-four dollars (\$24.00) shall be charged for issuing a first copy of a vital record or for conducting a routine search of the files for the record when no copy is made. A fee of fifteen dollars (\$15.00) shall be charged for each additional certificate copy requested from the same search. When certificates are issued or searches conducted for statewide issuance by local agencies using databases maintained by the State Registrar, the local agency shall charge ~~these fees and shall retain ten dollars (\$10.00) of these fees to cover local administrative costs and forward the remaining fees to the State Registrar for the purposes established in subsection (b) of this section.~~ section fourteen dollars (\$14.00) and shall charge and retain ten dollars (\$10.00) if a copy of the record is made. Provided, however, that a local agency may waive the ten dollar (\$10.00) charge for its retention when the copy is issued to a person over the age of 62 years."

SECTION 2.2. G.S. 161-10(8a) is repealed.

PART III. CHANGES TO THE LAWS GOVERNING TRUSTS AND DECEDENTS' ESTATES

SUBPART A. UNIFORM TRUST CODE AMENDMENTS RELATING TO PERSONS HOLDING THE POWER TO DIRECT TRUSTEES, TRUST PROTECTORS, DIRECTED TRUSTEES AND OTHER FIDUCIARIES

SECTION 3.1. G.S. 36C-8-808 reads as rewritten:

"§ 36C-8-808. Powers ~~to direct~~ of a settlor to take certain actions with respect to the trust.

(a) While a trust is revocable, the settlor of a revocable trust has, at all times, the power to direct or consent to the actions of the trustee whether or not the power is conferred upon the settlor by the terms of the trust. The duty and liability of the trustee subject to the direction and consent of the settlor is as follows:

- (1) The trustee may follow a direction of the settlor that is not authorized by or is contrary to the terms of the trust, even if by doing so (i) the trustee exceeds the authority granted to the trustee under the terms of the trust, or (ii) the trustee would otherwise violate a duty the trustee owes under the trust.
- (2) The trustee is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from compliance with the direction. If the settlor requires the settlor's consent to certain actions of the trustee, and the settlor does not provide consent within a reasonable time after the trustee has made a timely request for the settlor's consent, the trustee is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from the trustee's failure to take any action that required the settlor's consent.

(b) ~~If the terms of a trust confer upon a person other than the settlor of a revocable trust power to direct certain actions of the trustee, the trustee must act in accordance with an exercise of the power unless the attempted exercise is manifestly contrary to the terms of the trust, or the trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that the person holding the power owes to the beneficiaries of the trust.~~

~~(e) The terms of a trust may confer upon a trustee or other person a power to direct the modification or termination of the trust.~~

~~(d) A person, other than a beneficiary, who holds a power to direct is presumptively a fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust and the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results from breach of a fiduciary duty."~~

SECTION 3.2. G.S. 36C-7-703 is amended by adding the following new subsection to read:

"§ 36C-7-703. **Cotrustees.**

...

(e1) If the terms of a trust confer upon a cotrustee, to the exclusion of another cotrustee, the power to take certain actions with respect to the trust, including the power to direct or prevent certain actions of the trustees, the following apply:

(1) The duty and liability of the excluded trustee is as follows:

a. If the terms of a trust confer upon the cotrustee the power to direct certain actions of the excluded trustee, the excluded trustee must act in accordance with the direction and is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from compliance with the direction unless compliance with the direction constitutes intentional misconduct on the part of the directed cotrustee.

b. If the terms of the trust confer upon the cotrustee any other power, the excluded trustee is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from the action taken by the cotrustee.

c. The excluded trustee has no duty to monitor the conduct of the cotrustee, provide advice to the cotrustee, or consult with or request directions from the cotrustee. The excluded trustee is not required to give notice to any beneficiary of any action taken or not taken by the cotrustee whether or not the excluded trustee agrees with the result. Administrative actions taken by the excluded trustee for the purpose of implementing directions of the cotrustee, including confirming that the directions of the cotrustee have been carried out, do not constitute monitoring of the cotrustee nor do they constitute participation in decisions within the scope of the cotrustee's authority.

(2) Except as otherwise provided in sub-subdivision a. of subdivision (1) of this subsection, the cotrustee holding the power to take certain actions with respect to the trust shall be liable to the beneficiaries with respect to the exercise of the power as if the excluded trustee were not in office and has the exclusive obligation to account to the beneficiaries and defend any action brought by the beneficiaries with respect to the exercise of the power."

SECTION 3.3. G.S. 32-72(d) reads as rewritten:

"§ 32-72. **Terms of creating instrument.**

...

~~(d) Whenever an instrument reserves to the settlor or vests in any person, including an advisory or investment committee or one or more co-fiduciaries, the authority to direct the making or retention of any investment to the exclusion of the fiduciary or to the exclusion of one or more of several co-fiduciaries, the excluded fiduciary or co-fiduciary who has no discretion in selecting the person authorized to make or retain investments is not liable to the beneficiaries or to the trust for the decisions or actions of the settlor or other person authorized to direct the making or retention of investments. As used in this subsection, the term "person" includes an individual, a corporation, or any legal or commercial entity authorized to hold~~

~~property or do business in the State.~~ The following provisions apply to an instrument creating a fiduciary relationship other than a trust instrument to which Chapter 36C of the General Statutes applies and to a fiduciary other than a trustee:

- (1) The terms of the instrument may confer upon a person the power to direct or consent to certain actions of the fiduciary with respect to the following:
 - a. Investments, including retention, purchase, sale, exchange, or other transaction affecting the ownership of investments with respect to all or any one or more assets.
 - b. Any other administrative matter.
- (2) When the terms of the instrument confer upon a person the power to direct or consent to certain actions of the fiduciary, the duty and liability of the fiduciary are as follows:
 - a. If the terms of the instrument confer upon the person the power to direct certain actions of the fiduciary, the fiduciary must act in accordance with the direction and is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from compliance with the direction unless compliance with the direction constitutes intentional misconduct on the part of the fiduciary.
 - b. If the terms of the instrument confer upon a person the power to consent to certain actions of the fiduciary, and the power holder does not provide consent within a reasonable time after the fiduciary has made a timely request for the power holder's consent, the fiduciary is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from the fiduciary's failure to take any action that required the power holder's consent.
 - c. The fiduciary has no duty to monitor the conduct of the power holder, provide advice to the power holder, or consult with the power holder. The fiduciary is not required to give notice to any beneficiary of any action taken or not taken by the power holder whether or not the fiduciary agrees with the result. Administrative actions taken by the fiduciary for the purpose of implementing directions of the power holder, including confirming that the directions of the power holder have been carried out, do not constitute monitoring of the power holder or other participation in decisions within the scope of the power holder's authority.
- (3) A person who holds a power to direct or consent is a fiduciary who, as such, is required to act in good faith with regard to the purposes of the estate, or other relationship between the fiduciary and beneficiaries, and the interests of the beneficiaries, except that if a beneficiary is a person with a power to direct or consent, the beneficiary is not a fiduciary with respect to the following:
 - a. A power that constitutes a power of appointment.
 - b. A power the exercise or nonexercise of which affects only the interests of the beneficiary holding the power and no other beneficiary.

The holder of the power to direct or consent is liable for any loss that results from breach of a fiduciary duty occurring as a result of the exercise or nonexercise of the power.

SECTION 3.4. Chapter 36C of the General Statutes is amended by adding a new Article to read:

"Article 8A."Powers, Duties, and Liability of a Power Holder Other Than a Trustee;
Duty and Liability of a Trustee With Respect to Power Holder's Actions.**"§ 36C-8A-801. Definition.**

For purposes of this Article, the term "power holder" means a person who under the terms of a trust has the power to take certain actions with respect to a trust and who is not a trustee or a settlor with a power to direct or consent pursuant to G.S. 36C-8-808.

"§ 36C-8A-802. Powers of a power holder.

(a) The terms of a trust may confer upon a power holder a power to direct or consent to a duty that would normally be required of a trustee, including, but not limited to, a power to direct or consent to the following:

- (1) Investments, including any action relating to investment of all or any one or more of the trust assets that a trustee is authorized to take under this Chapter.
- (2) Discretionary distributions of trust assets, including distributions to one or more beneficiaries, distribution of one or more trust assets, and termination of the trust by distribution of all of the trust assets.
- (3) Any other matter regarding trust administration, including the transfer of the principal place of administration of the trust.

(b) The terms of a trust may also confer upon the power holder any other power, including, but not limited to, the power to do the following:

- (1) Modify or amend the trust to do any of the following:
 - a. Achieve favorable tax status under applicable law.
 - b. Take advantage of laws governing restraints on alienation or other State laws restricting the terms of the trust, distribution of trust property, or the administration of the trust.
- (2) Remove and appoint trustees and power holders.
- (3) Increase or decrease the interests of any beneficiary.
- (4) Grant a power of appointment to one or more beneficiaries of the trust or modify the terms of or terminate a power of appointment granted to a beneficiary by the governing instrument, except that a grant or modification of a power of appointment may not grant a beneficial interest to any of the following:
 - a. Any individual or class of individuals not specifically provided for in the trust instrument.
 - b. The person having the power to grant, modify, or terminate the power of appointment.
 - c. The estate and creditors of the person having the power to grant, modify, or terminate the power of appointment.
- (5) Change the governing law of the trust.

"§ 36C-8A-803. Duty and liability of power holder.

(a) A power holder is a fiduciary with respect to the powers conferred upon the power holder who, as such, is required to act in good faith and in accordance with the purposes and terms of a trust and the interests of the beneficiaries, except a power holder is not a fiduciary with respect to the following:

- (1) A power to remove and appoint a trustee or power holder.
- (2) A power that constitutes a power of appointment held by a beneficiary of a trust.
- (3) A power the exercise or nonexercise of which may affect only the interests of the power holder and no other beneficiary.

(b) A power holder is liable for any loss that results from breach of fiduciary duty occurring as a result of the exercise or nonexercise of the power.

(c) The following provisions applicable to a trustee shall also be applicable to a power holder with respect to powers conferred upon the power holder as a fiduciary:

- (1) The provisions of G.S. 36C-8-814 regarding discretionary powers and tax savings.
- (2) The provisions of G.S. 36C-10-1001 through G.S. 36C-10-1012 regarding liability of trustees and rights of third persons dealing with trustees.
- (3) The provisions of Article 9 of this Chapter regarding the uniform prudent investor rule.

"§ 36C-8A-804. Duty and liability of trustee.

(a) If the terms of a trust confer upon a power holder the power to direct certain actions of the trustee, the trustee must act in accordance with the direction and is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from compliance with the direction unless compliance with the direction constitutes intentional misconduct on the part of the trustee.

(b) If the terms of a trust confer upon the power holder the power to consent to certain actions of the trustee, and the power holder does not provide consent within a reasonable time after the trustee has made a timely request for the power holder's consent, the trustee is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from the trustee's failure to take any action that required the power holder's consent.

(c) If the terms of a trust confer upon the person a power other than the power to direct or consent to actions of the trustee, the trustee is not liable, individually or as a fiduciary, for any loss resulting directly or indirectly from the exercise or nonexercise of the power.

(d) The trustee has no duty to monitor the conduct of the power holder, provide advice to the power holder, or consult with the power holder. The trustee is not required to give notice to any beneficiary of any action taken or not taken by the power holder whether or not the trustee agrees with the result. Administrative actions taken by the trustee for the purpose of implementing directions of the power holder, including confirming that the directions of the power holder have been carried out, do not constitute monitoring of the power holder nor do they constitute participation in decisions within the scope of the power holder's authority.

"§ 36C-8A-805. Compensation and reimbursement of expenses of power holder.

A power holder as a fiduciary is entitled to compensation and reimbursement of expenses as provided in G.S. 32-59.

"§ 36C-8A-806. Jurisdiction over power holder.

(a) By accepting appointment to serve as a power holder with respect to a trust having its principal place of business in this State, or by moving the principal place of administration to this State, the power holder submits personally to the jurisdiction of the courts of this State regarding any matter involving action or inaction of the power holder.

(b) This section does not preclude other methods of obtaining jurisdiction over a power holder.

"§ 36C-8A-807. Accepting or declining the appointment as power holder.

(a) A person designated as a power holder accepts the appointment to serve as a power holder:

- (1) By substantially complying with a method of acceptance provided in the terms of a trust; or
- (2) If the terms of a trust do not provide a method or the method provided in the terms of a trust is not expressly made exclusive, by exercising powers or performing duties as a power holder or otherwise indicating acceptance of the appointment to serve as a power holder.

(b) A person designated as a power holder may reject the appointment to serve as a power holder. A trustee may give written notice to a power holder requesting acceptance of the appointment as power holder. A power holder who does not accept such appointment within 120 days after receipt of such notice is considered to have rejected the appointment to serve as a power holder.

"§ 36C-8A-808. Powers of trustee in the absence of a power holder.

The trustee shall be vested with any fiduciary power or duty conferred upon a power holder by the terms of a trust that are described in G.S. 36C-8A-802(a) during the time when no power holder is available to exercise such power or perform such duty because of absence, illness, or other cause.

"§ 36C-8A-809. More than one power holder.

When there is more than one power holder authorized to act, and they are unable to reach a unanimous decision, they may act by majority decision. Unanimity is required when only two are authorized to act.

"§ 36C-8A-810. Resignation of power holder.

(a) A power holder may resign upon either of the following conditions:

- (1) Upon at least 30 days' notice in writing to the qualified beneficiaries, the settlor, if living, and all trustees.
- (2) With the approval of the court.

(b) In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

"§ 36C-8A-811. Removal of power holder.

(a) For the reasons set forth in subsection (b) of this section, the settlor of an irrevocable trust, a trustee of an irrevocable trust, or a beneficiary of an irrevocable trust may request the court to remove a power holder, or a power holder may be removed by the court on its own initiative.

(b) The court may remove a power holder under any of the following circumstances:

- (1) The power holder has committed a serious breach of trust.
- (2) Lack of cooperation with the trustee substantially impairs the administration of the trust.
- (3) Because of unfitness, unwillingness, or a persistent failure of the power holder to exercise effectively the duties and powers conferred upon the power holder the court determines that removal of the power holder best serves the interests of the beneficiaries.
- (4) There has been a substantial change of circumstances, the court finds that removal of the power holder best serves the interests of all of the beneficiaries and is consistent with a material purpose of the trust, and a suitable successor power holder is available.

(c) Pending a final decision on a request to remove a power holder, or in lieu of or in addition to removing a power holder, the court may order appropriate relief under G.S. 36C-10-1001(b) as may be necessary to protect the trust property or the interests of the beneficiaries."

SUBPART B. TECHNICAL CORRECTIONS TO LAWS GOVERNING TRUSTS AND DECEDENTS' ESTATES

SECTION 3.5. G.S. 36C-7-707(b) reads as rewritten:

"§ 36C-7-707. Delivery of property by former trustee.

...

(b) A trustee who has resigned or been removed shall proceed expeditiously to deliver the trust property within the trustee's possession to the cotrustee, successor trustee, or other person entitled to it. A former trustee shall execute those documents ~~transferring~~ acknowledging the transfer of title to trust property as may be appropriate reasonably requested by the cotrustee, successor trustee, or other person entitled to it to facilitate administration of the trust, and in the event that the former trustee fails to do so, the clerk of superior court may order the former trustee to execute those documents, or the clerk of superior court may transfer title documents."

SECTION 3.6. G.S. 108A-70.5(c) reads as rewritten:**"§ 108A-70.5. Medicaid Estate Recovery Plan.**

...

(c) The amount the Department recovers from the estate of any recipient shall not exceed the amount of medical assistance made on behalf of the recipient and shall be recoverable only for medical care services prescribed in subsection (b) of this section. The Department is a ~~fifth-class~~sixth-class creditor, as prescribed in G.S. 28A-19-6, for purposes of determining the order of claims against an estate; provided, however, that judgments in favor of other ~~fifth-class~~sixth-class creditors docketed and in force before the Department seeks recovery for medical assistance shall be paid prior to recovery by the Department."

SECTION 3.7. G.S. 28A-13-3 reads as rewritten:**"§ 28A-13-3. Powers of a personal representative or fiduciary.**

...

~~(b) Any question arising out of the powers conferred by subsections (a), (a1), and (a2) of this section shall be determined in accordance with the provisions of Article 18 of this Chapter.~~

...

(d) The personal representative ~~shall have~~has the power to institute ~~an estate~~a proceeding pursuant to Article 2 of this Chapter to enforce the rights set forth in this ~~subsection~~section. The clerk of superior court may enter orders necessary to enforce the rights set forth in this ~~subsection~~section. If the person occupying the real property is a tenant or lessee of the property, the personal representative may seek ejectment of the tenant or lessee only pursuant to the provisions of Article 3 of Chapter 42 of the General Statutes."

SECTION 3.8. G.S. 28A-21-6 reads as rewritten:**"§ 28A-21-6. Permissive notice of final accounts.**

The personal representative or collector may, but is not required to, give written notice of a proposed final account pursuant to G.S. 1A-1, Rule 4, to all devisees of the estate in the case of testacy, and to all heirs of the estate in the case of intestacy, of the date and place of filing of such account. In giving written notice, the personal representative shall attach a copy of the proposed final accounting with exhibits made a part thereof, but is not required to include copies of vouchers, account statements, or other supporting evidence submitted to the clerk. If the personal representative or collector elects to provide this notice, the personal representative or collector shall file with the clerk of superior court a certificate indicating that this notice has been given to all devisees and heirs. Notwithstanding any right to appeal an order or judgment under G.S. 1-301.3, any payment, distribution, action, or other matter disclosed on such account or any annual account for the estate ~~filed by the personal representative or collector~~attached to the written notice must be objected to by a devisee or heir within 30 days after the receipt of the written notice or will be deemed to be accepted by the devisee or heir."

SECTION 3.9. G.S. 28A-25-1.1(a) reads as rewritten:**"§ 28A-25-1.1. Collection of property by affidavit when decedent dies testate.**

(a) When a decedent dies testate leaving personal property, less liens and encumbrances thereon, not exceeding twenty thousand dollars (\$20,000) in value, at any time after 30 days from the date of death, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the public administrator appointed pursuant to G.S. 28A-12-1, a person named or designated as executor in the will, devisee, heir or creditor, of the decedent, not disqualified under G.S. 28A-4-2, upon being presented a certified copy of an affidavit filed in accordance with subsection (b) and made by or on behalf of the heir, the person named or designated as executor in the will of the decedent, the creditor, the public administrator, or the devisee, stating:

- (1) The name and address of the affiant and the fact that the affiant is the public administrator, a person named or designated as executor in the will, devisee, heir or creditor, of the decedent;
- (2) The name of the decedent and the decedent's residence at time of death;
- (3) The date and place of death of the decedent;
- (4) That 30 days have elapsed since the death of the decedent;
- (5) That the decedent died testate leaving personal property, less liens and encumbrances thereon, not exceeding twenty thousand dollars (\$20,000) in value;
- (6) That the decedent's will has been admitted to probate in the court of the proper county and a duly certified copy of the will has been recorded in each county in which is located any real property owned by the decedent at the time of the decedent's death;
- (7) That a certified copy of the decedent's will is attached to the affidavit;
- (8) That no application or petition for appointment of a personal representative is pending or has been granted in any jurisdiction;
- (9) The names and addresses of those persons who are entitled, under the provisions of the will, or if applicable, of the Intestate Succession Act, to the property of the decedent; and their relationship, if any, to the decedent; and
- (10) A description sufficient to identify each tract of real property owned by the decedent at the time of the decedent's death.

In those cases in which the affiant is the surviving spouse, is entitled to all of the property of the decedent, and is not disqualified under G.S. 28A-4-2, the property described in this subsection that may be collected pursuant to this section may exceed twenty thousand dollars (\$20,000) in value but shall not exceed thirty thousand dollars (\$30,000) in ~~value.~~ value, after reduction for any spousal allowance paid to the surviving spouse pursuant to G.S. 30-15. In such cases, the affidavit shall state: (i) the name and address of the affiant and the fact that the affiant is the surviving spouse and is entitled, under the provisions of the decedent's will, or if applicable, of the Intestate Succession Act, to all of the property of the decedent; (ii) that the decedent died testate leaving personal property, less liens and encumbrances thereon, not exceeding thirty thousand dollars (\$30,000); and (iii) the information required under subdivisions (2), (3), (4), (6), (7), (8), and (10) of this subsection."

SECTION 3.10. G.S. 30-31 reads as rewritten:

"**§ 30-31. Amount of allowance.**

The clerk of superior court may assign to the petitioner a value sufficient for the support of petitioner according to the estate and condition of the decedent and without regard to the limitations set forth in this Chapter; but the value allowed shall be fixed with due consideration for other persons entitled to allowances for year's support from the decedent's estate; and the total value of all allowances shall not in any case exceed the one half of the average annual net income of the deceased for three years next preceding the deceased's death. ~~This report shall be returned by the magistrate to the court."~~

SECTION 3.11. Section 14 of S. L. 2011-344 reads as rewritten:

"**SECTION 14.** ~~This~~ Except as provided below, this act becomes effective January 1, 2012, and applies to estates of decedents dying on or after that date.

- (1) Subject to subdivision (3) of this section, Section 10 of this act becomes effective January 1, 2012, and applies to health care powers of attorney executed before, on, or after that date.
- (2) Subject to subdivision (3) of this section, Sections 11, 12, and 13 of this act become effective January 1, 2012, and apply to trust proceedings commenced before, on, or after that date.
- (3) Notwithstanding the provisions of subdivisions (1) and (2) of this section:

- a. In any proceeding pending before the effective date of this act, the provisions in Sections 10, 11, 12, and 13 of this act shall not apply retroactively and shall not apply prospectively if the court finds that application of a newly effective provision would substantially interfere with the effective conduct of a judicial proceeding or prejudice the rights of the parties.
- b. An act done before the date of enactment of this act is not affected by this act, and a right that was acquired, extinguished, barred, or commenced to run prior to the date of this act is not affected by this act."

PART IV. AUTHORITY OF THE REVISOR OF STATUTES TO PUBLISH EXPLANATORY COMMENTS

SECTION 4. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comments to the North Carolina Uniform Trust Code and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

PART V. EFFECTIVE DATE

SECTION 5. Sections 1.1 through 1.24 and Sections 2.1 and 2.2 of this act become effective July 1, 2012. The remaining sections of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 7th day of June, 2012.

Became law upon approval of the Governor at 4:53 p.m. on the 11th day of June, 2012.

Session Law 2012-19

H.B. 660

AN ACT ALLOWING A RESPONDENT IN AN ACTION FOR A CIVIL NO CONTACT ORDER TO BE SERVED BY MEANS OTHER THAN SERVICE IN PERSON BY A SHERIFF.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50C-9 reads as rewritten:

"§ 50C-9. Notice of orders.

(a) The clerk of court shall deliver on the same day that a civil no-contact order is issued, a certified copy of that order to the sheriff.

(b) ~~Unless~~ If the respondent was not present in court when the order was issued, the ~~sheriff shall serve the order on the respondent and file proof of service~~ respondent may be served in the manner provided for service of process in civil ~~proceedings~~ proceedings in accordance with Rule 4(j) of the Rules of Civil Procedure. If the summons has not yet been served upon the respondent, it shall be served with the order.

(c) A copy of the order shall be issued promptly to and retained by the police department of the municipality of the victim's residence. If the victim's residence is not located in a municipality or in a municipality with no police department, copies shall be issued promptly to and retained by the sheriff and the county police department, if any, of the county in which the victim's residence is located.

(d) Any order extending, modifying, or revoking any civil no-contact order shall be promptly delivered to the sheriff by the clerk and served ~~by the sheriff~~ in a manner provided for service of process in accordance with the provisions of this section."

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

In the General Assembly read three times and ratified this the 7th day of June, 2012.
Became law upon approval of the Governor at 4:54 p.m. on the 11th day of June,

2012.

Session Law 2012-20

H.B. 589

AN ACT TO AMEND THE LAWS RELATING TO DOMESTIC VIOLENCE PROTECTIVE ORDERS, AS RECOMMENDED BY THE NORTH CAROLINA BAR ASSOCIATION; AND TO PROVIDE FOR TERMINATION OF CHILD SUPPORT WHEN A CHILD IS ENROLLED IN AN EARLY COLLEGE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50B-2(c) reads as rewritten:

"(c) Ex Parte Orders. –

- (1) Prior to the hearing, if it clearly appears to the court from specific facts shown, that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the court may enter orders as it deems necessary to protect the aggrieved party or minor children from those ~~acts~~ acts. ~~provided, however, that a~~
- (2) A temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the court finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse.
- (3) If the court finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the court shall consider and may order the other party to (i) stay away from a minor child, or (ii) ~~to~~ return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the court finds that the order is in the best interest of the minor child and is necessary for the safety of the minor child.
- (4) If the court determines that it is in the best interest of the minor child for the other party to have contact with the minor child or children, the court shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party.
- (5) Upon the issuance of an ex parte order under this subsection, a hearing shall be held within 10 days from the date of issuance of the order or within seven days from the date of service of process on the other party, whichever occurs later. A continuance shall be limited to one extension of no more than 10 days unless all parties consent or good cause is shown. The hearing shall have priority on the court calendar.
- (6) If an aggrieved party acting pro se requests ex parte relief, the clerk of superior court shall schedule an ex parte hearing with the district court division of the General Court of Justice within 72 hours of the filing for said relief, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever shall first occur. If the district court is not in session in said county, the aggrieved party may contact the clerk of superior court in any other county within the same judicial district who shall schedule an ex parte hearing with the district court division

of the General Court of Justice by the end of the next day on which said court division is in session in that county.

- (7) Upon the issuance of an ex parte order under this subsection, if the party is proceeding pro se, the Clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, order and other papers through the appropriate law enforcement agency where the defendant is to be served."

SECTION 2. G.S. 50-13.4(c) reads as rewritten:

"(c) Payments ordered for the support of a minor child shall be in such amount as to meet the reasonable needs of the child for health, education, and maintenance, having due regard to the estates, earnings, conditions, accustomed standard of living of the child and the parties, the child care and homemaker contributions of each party, and other facts of the particular case. Payments ordered for the support of a minor child shall be on a monthly basis, due and payable on the first day of each month. The requirement that orders be established on a monthly basis does not affect the availability of garnishment of disposable earnings based on an obligor's pay period.

The court shall determine the amount of child support payments by applying the presumptive guidelines established pursuant to subsection (c1) of this section. However, upon request of any party, the Court shall hear evidence, and from the evidence, find the facts relating to the reasonable needs of the child for support and the relative ability of each parent to provide support. If, after considering the evidence, the Court finds by the greater weight of the evidence that the application of the guidelines would not meet or would exceed the reasonable needs of the child considering the relative ability of each parent to provide support or would be otherwise unjust or inappropriate the Court may vary from the guidelines. If the court orders an amount other than the amount determined by application of the presumptive guidelines, the court shall make findings of fact as to the criteria that justify varying from the guidelines and the basis for the amount ordered.

Payments ordered for the support of a child shall terminate when the child reaches the age of 18 except:

- (1) If the child is otherwise emancipated, payments shall terminate at that time;
- (2) If the child is still in primary or secondary school when the child reaches age 18, support payments shall continue until the child graduates, otherwise ceases to attend school on a regular basis, fails to make satisfactory academic progress towards graduation, or reaches age 20, whichever comes first, unless the court in its discretion orders that payments cease at age 18 or prior to high school graduation.
- (3) If the child is enrolled in a cooperative innovative high school program authorized under Part 9 of Article 16 of Chapter 115C of the General Statutes, then payments shall terminate when the child completes his or her fourth year of enrollment or when the child reaches the age of 18, whichever occurs later.

In the case of graduation, or attaining age 20, payments shall terminate without order by the court, subject to the right of the party receiving support to show, upon motion and with notice to the opposing party, that the child has not graduated or attained the age of 20.

If an arrearage for child support or fees due exists at the time that a child support obligation terminates, payments shall continue in the same total amount that was due under the terms of the previous court order or income withholding in effect at the time of the support obligation. The total amount of these payments is to be applied to the arrearage until all arrearages and fees are satisfied or until further order of the court."

SECTION 3. This act becomes effective October 1, 2012, and applies to actions or motions filed on or after that date.

In the General Assembly read three times and ratified this the 7th day of June, 2012.

Became law upon approval of the Governor at 4:56 p.m. on the 11th day of June, 2012.

Session Law 2012-21

S.B. 799

AN ACT TO REMEDY INFIRMITIES FOUND BY A FEDERAL COURT IN A LOCAL ACT RELATING TO ELECTION OF THE BOARD OF COMMISSIONERS OF GUILFORD COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2011-407 reads as rewritten:

"**SECTION 3.(a)** Chapter 136, Session Laws of 1991, as reenacted by Section 1 of Chapter 521, Session Laws of 1993, is repealed.

"**SECTION 3.(b)** Chapter 172, Session Laws of 2011, is repealed.

"**SECTION 3.(c)** Effective on the first Monday of December 2012, the Board of Commissioners of Guilford County shall consist of nine members. The members shall be elected on a partisan basis at the time of the regular county primary and general elections. One member shall be elected from each of eight single-member districts established under subsection (f) of this section. One member shall be elected at large from within the entirety of Guilford County.

"**SECTION 3.(d)** In 2012 and quadrennially thereafter, members for Districts 4, 5, ~~7, 6,~~ and 8 shall be elected for four-year terms. In 2014 and quadrennially thereafter, members for Districts 1, 2, 3, and ~~6 7~~ shall be elected for four-year terms, and the at-large member shall be elected for ~~four-year terms-a four-year term.~~

"**SECTION 3.(d1)** The member elected from District 9 in 2010 for a four-year term is assigned to and represents District 7 as that district is defined in subsection (f) of this section from the first Monday in December of 2012 through the end of her term. The members elected from District 1, 2, and 3 in 2010 for a four-year term are assigned to and represent through the end of their terms Districts 1, 2, and 3 respectively, as those districts are defined in subsection (f) of this section. The member elected from District 6 in 2010 for a four-year term is assigned to be the at-large member from the first Monday in December of 2012 through the end of her term.

"**SECTION 3.(d2)** Any vacancies in Districts 1, 2, 3, and 7 from the first Monday in December of 2012 through the end of the term shall be filled in accordance with G.S. 153A-27.1 by a resident of the district as defined in subsection (f) of this section.

"**SECTION 3.(e)** The qualified voters of each district shall elect the member of the board for that district. Candidates must reside in the district for which they seek to be elected.

"**SECTION 3.(f)** The districts are as follows:

District 1: Guilford County: VTD: G54, VTD: G55, VTD: G57, VTD: G60, VTD: H03, VTD: H05, VTD: H06, VTD: H07, VTD: H08, VTD: H09, VTD: H10, VTD: H11, VTD: H12, VTD: H17, VTD: H18, VTD: H19A, VTD: JAM4, VTD: SUM1, VTD: SUM2.

District 2: Guilford County: VTD: G36, VTD: G37, VTD: G62, VTD: G64, VTD: G65, VTD: H01, VTD: H02, VTD: H04, VTD: H13, VTD: H14, VTD: H16, VTD: H19B, VTD: H20A, VTD: H20B, VTD: H22, VTD: JAM1, VTD: JAM2, VTD: JAM3, VTD: JAM5, VTD: PG2, VTD: SCLAY, VTD: SUM3, VTD: SUM4.

District 3: Guilford County: VTD: FR3, VTD: FR5, VTD: G15, VTD: G16, VTD: G17, VTD: G33, VTD: G34, VTD: G35, VTD: G39, VTD: G40A1, VTD: G41, VTD: G42, VTD: G45, VTD: G48, VTD: OR1, VTD: OR2, VTD: SF3, VTD: SF4, VTD: STOK.

District 4: Guilford County: VTD: CG3A, VTD: CG3B, VTD: FEN2, VTD: G24, VTD: G25, VTD: G28, VTD: G29, VTD: GIB, VTD: GR, VTD: JEF1, VTD: JEF2, VTD: JEF4, VTD:

MON1, VTD: MON3, VTD: NCLAY1, VTD: NCLAY2, VTD: NMAD, VTD: NWASH, VTD: RC1, VTD: RC2, VTD: SMAD, VTD: SWASH.

District 5: Guilford County: VTD: CG1, VTD: CG2, VTD: G11, VTD: G12, VTD: G13, VTD: G14, VTD: G18, VTD: G19, VTD: G20, VTD: G21, VTD: G22, VTD: G23, VTD: G27, VTD: G30, VTD: G31, VTD: G32, VTD: G40A2, VTD: G40B, VTD: G44, VTD: NCGR1, VTD: NCGR2, VTD: SF1, VTD: SF2.

District 6: Guilford County: VTD: FR1, VTD: FR2, VTD: FR4, VTD: G38, VTD: G43, VTD: G66, VTD: H15, VTD: H21, VTD: H23, VTD: H24, VTD: H25, VTD: H26, VTD: H27, VTD: HP, VTD: NDRI, VTD: SDRI.

District 7: Guilford County: VTD: FEN1, VTD: G03, VTD: G05, VTD: G06, VTD: G08, VTD: G09, VTD: G10, VTD: G26, VTD: G53, VTD: G71, VTD: G72, VTD: G74, VTD: G75, VTD: JEF3, VTD: MON2, VTD: PG1.

District 8: Guilford County: VTD: G01, VTD: G02, VTD: G04, VTD: G07, VTD: G46, VTD: G47, VTD: G49, VTD: G50, VTD: G51, VTD: G52, VTD: G56, VTD: G58, VTD: G59, VTD: G61, VTD: G63, VTD: G67, VTD: G68, VTD: G69, VTD: G70, VTD: G73.

The names and boundaries of the voting tabulation districts specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles.

"SECTION 3.(g) Following the return of the 2020 census, and each census thereafter, the Guilford County Board of Commissioners may revise the election ~~districts~~ districts as provided by G.S. 153A-22.

"SECTION 3.(h) Notwithstanding Part 4 of Article 4 of Chapter 153A of the General Statutes, the structure of the Guilford County Board of Commissioners shall not be altered under that Part prior to July 1, 2017.

"SECTION 3.(i) The Guilford County Commissioners shall submit the changes required by this act to the U.S. Department of Justice pursuant to section 5 of the Voting Rights Act of 1965."

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, 2012.

Became law on the date it was ratified.

Session Law 2012-22

S.B. 830

AN ACT TO ALLOW IREDELL COUNTY TO ESTABLISH A SATELLITE REGISTER OF DEEDS OFFICE AND TO AUTHORIZE THE RECORDING OF DOCUMENTS AT THAT OFFICE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 161 of the General Statutes is amended by adding a new section to read:

"§ 161-14.4. Satellite office.

(a) The county board of commissioners may by resolution establish a satellite office of the register of deeds at a location in the county other than the seat of government. Before a satellite office is established, the register of deeds shall certify to the board of county commissioners that the recording and indexing procedures to be used in the satellite office comply in all respects with the law and have been approved by the Secretary of State.

(b) Any instrument registered or document recorded at a satellite office of the register of deeds on or after the effective date of a resolution adopted pursuant to subsection (a) of this section shall be considered for all purposes a legally registered instrument or recorded document, and such instruments and documents shall be considered the same as though they had been registered or recorded in the register of deeds office at the seat of government."

SECTION 2. This act applies to Iredell County only.

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

In the General Assembly read three times and ratified this the 12th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-23

H.B. 296

AN ACT TO AUTHORIZE SAMPSON COUNTY TO PROHIBIT THE ISSUANCE OF A SPECIAL USE OR CONDITIONAL USE PERMIT, OR A BUILDING PERMIT, TO A DELINQUENT TAXPAYER, AND TO AUTHORIZE SAMPSON COUNTY TO REQUIRE THE PAYMENT OF DELINQUENT PROPERTY TAXES BEFORE RECORDING DEEDS CONVEYING PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 153A-340 is amended by adding a new subsection to read:

"§ 153A-340. **Grant of power.**

...

(c2) A county may by ordinance provide that a special use permit or conditional use permit may not be issued under subsection (c1) of this section to a person who owes delinquent property taxes, determined under G.S. 105-360, on property owned by the person. Such ordinance may provide that a special use permit or conditional use permit may be issued to a person protesting the assessment or collection of property taxes.

...."

SECTION 1.(b) This section applies to Sampson County only.

SECTION 2. G.S. 153A-357(c) reads as rewritten:

"§ 153A-357. **Permits.**

...

- (c) (1) A county may by ordinance provide that a permit may not be issued under subsection (a) of this section to a person who owes delinquent property taxes, determined under G.S. 105-360, on property owned by the person. Such ordinance may provide that a building permit may be issued to a person protesting the assessment or collection of property taxes.
- (2) This subsection applies to Alexander, Alleghany, Anson, Bertie, Catawba, Chowan, Currituck, Davie, Gates, Greene, Lenoir, Lincoln, Iredell, Sampson, Stokes, Surry, Tyrrell, Wayne, and Yadkin Counties only.

...."

SECTION 3. G.S. 161-31(b) reads as rewritten:

"§ 161-31. **Tax certification.**

...

(b) **Applicability.** – This section applies only to Alamance, Alexander, Anson, Beaufort, Bertie, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Catawba, Cherokee, Chowan, Clay, Cleveland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Sampson, Stanly, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wayne, Wilson, Yadkin, and Yancey Counties."

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

In the General Assembly read three times and ratified this the 12th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-24**H.B. 322**

AN ACT TO ALLOW THE HAYWOOD COUNTY BOARD OF ELECTIONS TO EXTEND THE FILING PERIOD IF NO PERSON FILES FOR A SEAT ON THE HAYWOOD COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. The last three sentences of Section 4 of Chapter 126, Session Laws of 1963, as amended by Chapter 22, Session Laws of 1977, and as rewritten by Chapter 89 of the 1979 Session Laws and by S.L. 2009-29, read as rewritten:

"All candidates for membership of the consolidated school system for the various districts shall file a notice of such candidacy no earlier than the first Monday in July (except the next business day if the first Monday in July is July 4), and no later than 12:00 noon on the third Friday in July preceding the general election and each candidate shall pay a filing fee of ten dollars (\$10.00) and shall certify in writing the election district for which he is filing and that he is a bona fide resident and qualified voter thereof. The election of members for the consolidated school system shall be held, conducted and supervised by the Haywood County Board of Elections and, except as otherwise provided herein, such election shall be held in accordance with the laws and regulations for the election of county officers. Absentee ballots shall be permitted in the election. If at the close of filing there is no candidate filed for a district seat with one member up at that election, or less than two candidates filed for a district with two members up at that election, the Haywood County Board of Elections shall reopen filing for that district for a period beginning the next Monday at 12:00 noon and ending at noon on the third business day thereafter."

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, 2012.

Became law on the date it was ratified.

Session Law 2012-25**H.B. 328**

AN ACT TO PROVIDE THAT A VACANCY IN THE OFFICE OF SHERIFF IN WAYNE COUNTY IS FILLED BY RECOMMENDATION OF THE EXECUTIVE COMMITTEE OF THE POLITICAL PARTY OF THE VACATING SHERIFF.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 162-5.1 reads as rewritten:

"§ 162-5.1. **Vacancy filled in certain counties; duties performed by coroner or chief deputy.**

If any vacancy occurs in the office of sheriff, the coroner of the county shall execute all process directed to the sheriff until the board shall elect a sheriff to supply the vacancy for the residue of the term, who shall possess the same qualifications, enter into the same bond, and be subject to removal, as the sheriff regularly elected. If the sheriff were elected as a nominee of a political party, the board of commissioners shall consult the county executive committee of that political party before filling the vacancy, and shall elect the person recommended by the county executive committee of that party, if the party makes a recommendation within 30 days of the occurrence of the vacancy. If the board should fail to fill such vacancy, the coroner shall continue to discharge the duties of sheriff until it shall be filled.

In those counties where the office of coroner has been abolished, the chief deputy sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall perform all the duties of the sheriff until the county commissioners appoint some person to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the interim of the vacancy, continue to perform their duties with full authority.

This section shall apply only in the following counties: Alamance, Alexander, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Cherokee, Clay, Cleveland, Davidson, Davie, Edgecombe, Forsyth, Gaston, Graham, Guilford, Haywood, Henderson, Hyde, Jackson, Lee, Lincoln, Madison, McDowell, Mecklenburg, Moore, New Hanover, Onslow, Pender, Polk, Randolph, Richmond, Rockingham, Rutherford, Sampson, Stokes, Surry, Transylvania, Wake, Wayne, and Yancey."

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, 2012.

Became law on the date it was ratified.

Session Law 2012-26

H.B. 511

AN ACT DISSOLVING THE GOLDSBORO-WAYNE AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. The Goldsboro-Wayne Airport Authority shall cease to exist at midnight on June 30, 2012, and all of its property shall become the property of Wayne County.

SECTION 2. Nothing in this act shall be deemed to affect any pending litigation involving the Goldsboro-Wayne Municipal Airport or the Goldsboro-Wayne Airport Authority.

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

In the General Assembly read three times and ratified this the 12th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-27

H.B. 1065

AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO (I) PERMIT THE USE OF PUBLIC SCHOOL BUSES TO SERVE THE TRANSPORTATION NEEDS OF THE 2014 U.S. OPEN GOLF TOURNAMENT AND (II) BEGIN THE 2013-2014 SCHOOL YEAR ONE WEEK EARLIER.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, the Moore County Board of Education may permit the use and operation of public school buses as the Board deems necessary from June 9, 2014, through June 22, 2014, for the transportation needs of persons associated with the U.S. Open golf tournament to be held in Moore County.

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

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

SECTION 2. The Moore County Board of Education may begin the 2013-2014 school year one week earlier than authorized by G.S. 115C-84.2 to permit the U.S. Open to use school facilities from June 9, 2014, through June 22, 2014, without disruption of student and staff activities.

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

In the General Assembly read three times and ratified this the 12th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-28

H.B. 673

AN ACT TO PROVIDE THAT INDIVIDUALS ENGAGED IN A PATTERN OF STREET GANG ACTIVITY ARE SUBJECT TO INJUNCTIONS AS NUISANCES PURSUANT TO CHAPTER 19 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"Article 13B.

"North Carolina Street Gang Nuisance Abatement Act.

"§ 14-50.31. Short title.

This Article shall be known and may be cited as the "North Carolina Street Gang Nuisance Abatement Act."

"§ 14-50.32. 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, as defined in G.S. 14-50.16(c), shall constitute a public nuisance and may be abated as provided by and subject to the provisions of 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 or the owner is being coerced into allowing the property to be used for criminal street gang activity.

"§ 14-50.33. Street gangs declared a public nuisance.

(a) A street gang, as defined in G.S. 14-50.16(b), that regularly engages in criminal street gang activities, as defined in G.S. 14-50.16(c), constitutes a public nuisance. For the purposes of this section, the term "regularly" means at least five times in a period of not more than 12 months.

(b) Any person who regularly associates with others to engage in criminal street gang activity, as defined in G.S. 14-50.16(c), may be made a defendant in a suit, brought pursuant to Chapter 19 of the General Statutes, to abate any public nuisance resulting from criminal street gang activity.

(c) If the court finds that a public nuisance exists under this section, the court may enter an order enjoining the defendant in the suit from engaging in criminal street gang activities and impose other reasonable requirements to prevent the defendant or a gang from engaging in future criminal street gang activities.

(d) An order entered under this section shall expire one year after entry; however, the order may be modified, rescinded, or vacated at any time prior to its expiration date upon the motion of any party if it appears to the court that one or more of the defendants is no longer engaging in criminal street gang activities."

SECTION 2. G.S. 14-50.24 is repealed.

SECTION 3. This act becomes effective October 1, 2012, and applies to offenses committed and abatement actions commenced on or after that date.

In the General Assembly read three times and ratified this the 7th day of June, 2012.

Became law upon approval of the Governor at 1:02 p.m. on the 15th day of June, 2012.

Session Law 2012-29

S.B. 236

AN ACT ADOPTING THE EASTERN TIGER SWALLOWTAIL AS THE OFFICIAL STATE BUTTERFLY, DESIGNATING THE SHELBY LIVERMUSH FESTIVAL AS THE OFFICIAL FALL LIVERMUSH FESTIVAL OF THE STATE OF NORTH CAROLINA, DESIGNATING THE MARION LIVERMUSH FESTIVAL AS THE OFFICIAL SPRING LIVERMUSH FESTIVAL OF THE STATE OF NORTH CAROLINA, AND DESIGNATING THE SWANSBORO MULLET FESTIVAL AS THE OFFICIAL MULLET FESTIVAL OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding the following sections:

"§ 145-38. State butterfly.

The Eastern tiger swallowtail (Papilio glaucus) is adopted as the official State butterfly of the State of North Carolina.

"§ 145-39. State spring and fall livermush festivals.

(a) The Shelby Livermush Festival is adopted as the official fall livermush festival of the State of North Carolina.

(b) The Marion Livermush Festival is adopted as the official spring livermush festival of the State of North Carolina.

"§ 145-40. State mullet festival.

The Swansboro Mullet Festival is adopted as the official mullet festival of the State of North Carolina."

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

In the General Assembly read three times and ratified this the 11th day of June, 2012.

Became law upon approval of the Governor at 1:03 p.m. on the 15th day of June, 2012.

Session Law 2012-30

S.B. 906

AN ACT TO ALLOW THE TOWN OF NAGS HEAD TO LEASE OUT PROPERTY FOR A LICENSED NURSING HOME FOR UP TO FORTY YEARS WITHOUT TREATING IT AS A SALE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-272 reads as rewritten:

"§ 160A-272. Lease or rental of property.

(a) Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than ~~40~~ years (except as otherwise provided herein) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included. Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon 10 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

(b) No public notice need be given for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less. Leases for terms of more than ~~10~~40 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

(c) The council may approve a lease for the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 20 years without treating the lease as a sale of property and without giving notice by publication of the intended lease. This subsection applies to Catawba, Mecklenburg, and Wake Counties, the Cities of Asheville, Raleigh, and Winston-Salem, and the Towns of Apex, Carrboro, Cary, Chapel Hill, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, and Zebulon only."

SECTION 2. This act applies only to the Town of Nags Head and, as to that town only, applies to a lease to allow for the operation of a licensed nursing home permitted under Chapter 131E 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 18th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-31

H.B. 7

AN ACT TO PROVIDE THAT CONSTITUENT INSTITUTIONS OF THE NORTH CAROLINA COMMUNITY COLLEGE SYSTEM MAY OPT OUT OF PARTICIPATION IN THE WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-40.1 reads as rewritten:

"§ **115D-40.1. Financial Assistance for Community College Students.**

...
 (d) Participation in Federal Loan Programs. – All community colleges shall participate in the William D. Ford Federal Direct Loan ~~Program~~Program, unless the board of trustees of an institution adopts a resolution declining to participate in the Program. The State Board shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students, including, but not limited to, Pell Grants, HOPE and Lifetime Learning Tax Credits, ~~and~~ and, for participating colleges, the William D. Ford Federal Direct Loan Program, and to actively encourage students to utilize these federal programs and funds. The board of trustees of any institution that has declined to participate in the William D. Ford Federal Direct Loan Program through the adoption of a resolution may rescind the resolution and participate in the Program but shall not have the authority to again decline participation in the Program."

SECTION 2. This act becomes effective July 1, 2011.

In the General Assembly read three times and ratified this the 5th day of April, 2011.

Became law notwithstanding the objections of the Governor at 7:35 p.m. this 18th day of June, 2012.

Session Law 2012-32**S.B. 818**

AN ACT TO EXEMPT CLAY COUNTY FROM CERTAIN STATUTORY REQUIREMENTS IN THE RENOVATION AND RESTORATION OF ITS OLD COURTHOUSE BUILDING TO BE LEASED AND/OR USED AS A MULTIPURPOSE FACILITY.

The General Assembly of North Carolina enacts:

SECTION 1. Clay County may, upon terms and conditions that it considers appropriate, and without being subject to the requirements of G.S. 143-128, 143-129, 143-131, and 143-132, enter into contracts and/or leases that would contain provisions requiring lessees to renovate and/or restore Clay County's old courthouse building located on the square in the Town of Hayesville so that the same can be leased and/or used as a multipurpose facility.

SECTION 2. This act is effective when it becomes law and expires June 30, 2015.

In the General Assembly read three times and ratified this the 19th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-33**H.B. 741**

AN ACT TO SET A MAXIMUM LENGTH FOR LAW ENFORCEMENT AND EMERGENCY MANAGEMENT VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-116(d) is amended by adding a new subdivision to read:

"(4) Vehicles owned or leased by State, local, or federal government, when used for official law enforcement or emergency management purposes, shall not exceed 45 feet in length overall, excluding bumpers and mirrors."

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

In the General Assembly read three times and ratified this the 13th day of June, 2012.

Became law upon approval of the Governor at 11:46 a.m. on the 20th day of June, 2012.

Session Law 2012-34**H.B. 813**

AN ACT TO EXPAND THE DEFINITION OF INDUSTRIAL MACHINERY EXEMPT FROM BUILDING CODE INSPECTION TO INCLUDE EQUIPMENT AND MACHINERY ACQUIRED BY STATE-SUPPORTED CENTERS PROVIDING TESTING, RESEARCH, AND DEVELOPMENT SERVICES TO MANUFACTURING CLIENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138(b9) reads as rewritten:

"(b9) 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~~ product or acquired by a

State-supported center providing testing, research, and development services to manufacturing clients. 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."

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

In the General Assembly read three times and ratified this the 14th day of June, 2012.

Became law upon approval of the Governor at 11:49 a.m. on the 20th day of June, 2012.

Session Law 2012-35

H.B. 941

AN ACT TO CLARIFY THE APPROPRIATE MEASUREMENT OF PSEUDOEPHEDRINE PRODUCTS FOR PURPOSES OF THE PSEUDOEPHEDRINE TRANSACTION LIMITS, AND TO CLARIFY THE IDENTIFICATION AND ELECTRONIC RECORD-KEEPING REQUIREMENTS FOR PSEUDOEPHEDRINE PRODUCTS, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON METHAMPHETAMINE ABUSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-113.53 reads as rewritten:

"§ **90-113.53. Pseudoephedrine transaction limits.**

(a) No person shall deliver to any one person, attempt to deliver to any one person, purchase, or attempt to purchase at retail ~~more than two packages containing a combined total of~~ more than 3.6 grams of any pseudoephedrine products per calendar day. This limit does not apply if the product is dispensed under a valid prescription.

(b) No person shall purchase at retail ~~more than three packages containing a combined total of~~ more than 9 grams of pseudoephedrine products within any 30-day period. This limit does not apply if the product is dispensed under a valid prescription.

(c) This section does not apply to any pseudoephedrine products that are in the form of liquids, liquid capsules, gel capsules, or pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instruction, except as to those specific products for which the Commission issues an order pursuant to G.S. 90-113.58 subjecting the product to requirements under this Article."

SECTION 2. G.S. 90-113.52(c) reads as rewritten:

"(c) A pseudoephedrine product may be sold at retail without a prescription only to a person at least 18 years of age. The retailer shall require every retail purchaser of a pseudoephedrine product to furnish ~~photo identification.~~ a valid, unexpired, government-issued photo identification and to provide, in print or orally, a current valid personal residential address. If the retailer has reasonable grounds to believe that the prospective purchaser is under 18 years of age, the retailer shall require the prospective purchaser to furnish photo identification showing the date of birth of the person. The name and address of every purchaser shall be entered in a record of disposition of pseudoephedrine products to the consumer on a form approved by the Commission. The record of disposition shall also identify each pseudoephedrine product purchased, including the number of grams the product contains and the purchase date of the transaction. The retailer shall require that every purchaser sign the form attesting to the validity of the information. The form approved by the Commission shall be constructed so that it allows for entry of information in electronic format, including electronic signature. The form shall also be constructed and maintained so as to minimize disclosure of personal information to unauthorized persons ~~and shall contain a statement in at least 10-point boldface type at the top of every page substantially similar to the following:~~ "NORTH CAROLINA LAW STRICTLY PROHIBITS THE PURCHASE OF MORE THAN TWO PACKAGES OF CERTAIN PRODUCTS CONTAINING PSEUDOEPHEDRINE (3.6

~~GRAMS TOTAL) PER DAY, AND MORE THAN THREE PACKAGES (9 GRAMS TOTAL) OF CERTAIN PRODUCTS CONTAINING PSEUDOEPHEDRINE WITHIN A 30-DAY PERIOD. BY MY SIGNATURE, I ATTEST THAT THE INFORMATION I HAVE PROVIDED IN CONNECTION WITH THIS TRANSACTION IS TRUE AND CORRECT AND THAT THIS TRANSACTION DOES NOT EXCEED THE PURCHASE RESTRICTIONS. I ACKNOWLEDGE THAT KNOWING AND WILLFUL VIOLATION OF THE PURCHASE RESTRICTIONS OR THE FURNISHING OF FALSE INFORMATION IN CONNECTION THEREWITH MAY SUBJECT ME TO CRIMINAL PENALTIES."~~ If the form attesting to the validity of this information is to be signed by the purchaser in electronic format, the retailer may choose to display in a clear and conspicuous manner the statement on a sign to be placed immediately adjacent to the device on which the electronic signature will be obtained, in lieu of including the full statement in electronic format. If the retailer chooses to display the statement on a sign rather than in electronic format, the retailer shall: (i) instruct the purchaser prior to signing to read the statement; and (ii) include on the form for signature contained in the electronic device a statement substantially similar to the following: "I have read, understand, and agree with the statement just shown to me concerning the requirements under State law pertaining to pseudoephedrine purchases." Display of the sign in this manner shall satisfy the signage requirements of G.S. 90-113.54 persons."

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

In the General Assembly read three times and ratified this the 14th day of June, 2012.

Became law upon approval of the Governor at 11:51 a.m. on the 20th day of June, 2012.

Session Law 2012-36

H.B. 1025

AN ACT TO EXTEND THE SUNSET OF CERTAIN TAX PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2009-505 reads as rewritten:

"**SECTION 2.** This act is effective when it becomes law and expires ~~July 1, 2012.~~July 1, 2013."

SECTION 2. G.S. 105-129.16D(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for facilities placed in service on or after ~~January 1, 2013.~~January 1, 2014."

SECTION 3. G.S. 105-129.16F(b) reads as rewritten:

"(b) Sunset. – This section is repealed for taxable years beginning on or after ~~January 1, 2013.~~January 1, 2014."

SECTION 4. G.S. 105-129.16G(b) reads as rewritten:

"(b) Sunset. – This section expires for taxable years beginning on or after ~~January 1, 2012.~~January 1, 2014."

SECTION 5. G.S. 105-129.82(a) reads as rewritten:

"(a) Sunset. – This Article is repealed effective for business activities that occur on or after ~~January 1, 2013.~~January 1, 2014."

SECTION 6.(a) G.S. 105-130.48(f) reads as rewritten:

"(f) Sunset. – This section is repealed effective for taxable years beginning on or after ~~January 1, 2013.~~January 1, 2014."

SECTION 6.(b) G.S. 105-151.30(f) reads as rewritten:

"(f) Sunset. – This section is repealed effective for taxable years beginning on or after ~~January 1, 2013.~~January 1, 2014."

SECTION 7. G.S. 105-151.28(d) reads as rewritten:

"(d) Sunset. – This section is repealed for taxable years beginning on or after ~~January 1, 2013~~January 1, 2014."

SECTION 8. G.S. 105-151.31(c) reads as rewritten:

"(c) Sunset. – This section is repealed effective for taxable years beginning on or after ~~January 1, 2013~~January 1, 2014."

SECTION 9. G.S. 105-151.32(c) reads as rewritten:

"(c) Sunset. – This section is repealed effective for taxable years beginning on or after ~~January 1, 2013~~January 1, 2014."

SECTION 10. G.S. 105-163.015 reads as rewritten:**"§ 105-163.015. Sunset.**

This Part is repealed effective for investments made on or after ~~January 1, 2013~~January 1, 2014."

SECTION 11.(a) G.S. 105-164.14A(a) reads as rewritten:

"(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:

- (1) **(Repealed for purchases made on or after January 1, 2013)** Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars (\$2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). This subdivision is repealed for purchases made on or after ~~January 1, 2013~~January 1, 2014.
- (2) Major recycling facility. – An owner of a major recycling facility is allowed a refund of the sales and use tax paid by it on building materials, building supplies, fixtures, and equipment that become a part of the real property of the recycling facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner.
- (3) Business in low-tier area. – A taxpayer that is engaged primarily in one of the businesses listed in G.S. 105-129.83(a) in a development tier one area and that places machinery and equipment in service in that area is allowed a refund of the sales and use tax paid by it on the machinery and equipment. For purposes of this subdivision, "machinery and equipment" includes engines, machinery, equipment, tools, and implements used or designed to be used in one of the businesses listed in G.S. 105-129.83, capitalized for tax purposes under the Code, and not leased to another party. Liability incurred indirectly by the taxpayer for sales and use taxes on these items is considered tax paid by the taxpayer. The sunset for Article 3J of Chapter 105 of the General Statutes for development tier one areas applies to this subdivision.
- (4) **(Repealed for purchases made on or after January 1, 2013)** Motorsports team or sanctioning body. – A professional motorsports racing team, a motorsports sanctioning body, or a related member of such a team or 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 purposes of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motorsports testing. This subdivision is repealed for purchases made on or after ~~January 1, 2013~~January 1, 2014.
- (5) **(Repealed for purchases made on or after January 1, 2014)** Professional motorsports team. – A professional motorsports racing team or a related member of a team is allowed a refund of fifty percent (50%) of the sales and

use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motorsports vehicle. For purposes of this subdivision, "motorsports accessories" includes instrumentation, telemetry, consumables, and paint. This subdivision is repealed for purchases made on or after January 1, 2014.

- (6) **(Repealed for purchases made on or after January 1, 2013)** Analytical services business. – A taxpayer engaged in analytical services in this State is allowed a refund of sales and use tax paid by it. This subdivision is repealed for purchases made on or after ~~January 1, 2013~~ January 1, 2014. The amount of the refund is the greater of the following:
- a. Fifty percent (50%) of the eligible amount of sales and use tax paid by it on tangible personal property that is consumed or transformed in analytical service activities. The eligible amount of sales and use tax paid by the taxpayer in this State is the amount by which sales and use tax paid by the taxpayer in this State in the fiscal year exceed the amount paid by the taxpayer in this State in the 2006-2007 State fiscal year.
 - b. Fifty percent (50%) of the amount of sales and use tax paid by it in the fiscal year on medical reagents.
- (7) **(Repealed for purchases made on or after January 1, 2038)** Railroad intermodal facility. – The owner or lessee of an eligible railroad intermodal facility is allowed a refund of sales and use tax paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the facility. Liability incurred indirectly by the owner or lessee of the facility for sales and use taxes on these items is considered tax paid by the owner or lessee. This subdivision is repealed for purchases made on or after January 1, 2038."

SECTION 11.(b) G.S. 105-164.14B(f) reads as rewritten:

"(f) Sunset. – This section is repealed for sales made on or after ~~January 1, 2013~~ January 1, 2014."

SECTION 12.(a) G.S. 105-129.39 reads as rewritten:

"§ 105-129.39. Sunset.

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after ~~January 1, 2014~~ January 1, 2015."

SECTION 12.(b) G.S. 105-129.75 reads as rewritten:

"§ 105-129.75. Sunset.

This Article expires ~~January 1, 2014~~ January 1, 2015, for rehabilitation projects for which an application for an eligibility certification is submitted on or after that date."

SECTION 13. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of June, 2012.

Became law upon approval of the Governor at 11:54 a.m. on the 20th day of June, 2012.

Session Law 2012-37

S.B. 806

AN ACT TO MAKE CHANGES TO THE LAW DEALING WITH THE ANNUAL ASSESSMENTS OF MORTGAGE BANKERS, MORTGAGE BROKERS, AND MORTGAGE SERVICERS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19B of Chapter 53 of the General Statutes is amended by adding a new section to read:

"§ 53-244.100A. Assessments.

(a) For the purpose of meeting the cost of regulation under this Article, each mortgage lender, mortgage broker, and mortgage servicer licensed under this Article shall pay into the OCOB an assessment as provided in this subsection. The annual assessment shall consist of a base amount of two thousand dollars (\$2,000) for volumes of no more than one million five hundred thousand dollars (\$1,500,000) plus an additional sum, calculated on the loan and servicing dollar volume reported by the licensee to the OCOB for the previous calendar year. If a licensee has both loan and servicing volume, those amounts shall be added together and the assessment shall be calculated from the table below as follows:

<u>Loan and/or Servicing Dollar Volume</u>	<u>Per Thousand</u>
<u>\$1,500,001 to \$2,500,000</u>	<u>\$0.07</u>
<u>\$2,500,001 to \$5,000,000</u>	<u>\$0.06</u>
<u>\$5,000,001 to \$10,000,000</u>	<u>\$0.05</u>
<u>\$10,000,001 to \$30,000,000</u>	<u>\$0.04</u>
<u>\$30,000,001 to \$100,000,000</u>	<u>\$0.03</u>
<u>\$100,000,001 to \$1,300,000,000</u>	<u>\$0.02</u>
<u>More Than \$1,300,000,001</u>	<u>\$0.01</u>

(b) The Commissioner may collect the assessment provided for in subsection (a) of this section annually or in periodic installments as approved by the Commission."

SECTION 2. G.S. 53-244.101 reads as rewritten:

"§ 53-244.101. License renewal.

(a) All licenses issued by the Commissioner under the provisions of this Article shall expire annually on the 31st day of December following issuance or on any other date that the Commissioner may determine. The license is invalid after that date and shall remain invalid unless renewed under subsection (b) of this section.

(b) A license may be renewed on or after November 1 of each year by complying with the requirements of subsection (c) of this ~~section~~ section. A mortgage loan originator shall pay a nonrefundable renewal fee of one hundred twenty-five dollars (\$125.00) and by paying to the Commissioner, in addition to plus the actual cost of obtaining credit reports and State and national criminal history record checks and of processing fees of for the nationwide system Nationwide Mortgage Licensing System and Registry as the Commissioner shall require, nonrefundable renewal fees as follows: require.

- (1) ~~Licensed mortgage lenders, licensed mortgage brokers, and licensed mortgage servicers shall pay an annual renewal fee of six hundred twenty five dollars (\$625.00), licensed exclusive mortgage brokers shall pay an annual renewal fee of three hundred dollars (\$300.00), and licensed mortgage lenders and mortgage brokers shall pay three hundred dollars (\$300.00) for each licensed branch office.~~
- (2) ~~Licensed mortgage loan originators shall pay an annual renewal fee of one hundred twenty five dollars (\$125.00).~~

(c) Licensees may apply to renew a mortgage loan originator, mortgage lender, mortgage broker, and mortgage servicer license. The application for renewal shall demonstrate that:

- (1) The licensee continues to meet the initial minimum standards for licensure under G.S. 53-244.060;
- (2) The mortgage loan originator has satisfied the annual continuing education requirements described in G.S. 53-244.102; and
- (3) The licensee has paid all required fees ~~for renewal of the license and assessments.~~

(d) If a mortgage lender, mortgage broker, or mortgage servicer's license is not renewed prior to the expiration date, then the licensee shall pay two hundred fifty dollars (\$250.00) as a nonrefundable late fee ~~in addition to the renewal fee set forth in subsection (b) of this section.~~ fee. If a mortgage loan originator's license is not renewed prior to the expiration date, then the licensee shall pay a nonrefundable late fee of one hundred dollars (\$100.00) in addition to the renewal fee set forth in subsection (b) of this section. In the event a licensee fails to obtain a reinstatement of the license prior to March 1, the Commissioner shall require the licensee to comply with the requirements for the initial issuance of a license under the provisions of this Article.

(e) When required by the Commissioner, each person shall furnish to the Commissioner the person's consent to a criminal history record check and a set of the person's fingerprints in a form acceptable to the Commissioner or to the Nationwide Mortgage Licensing System and Registry. Refusal to consent to a criminal history record check shall constitute grounds for the Commissioner to deny renewal of the license of the person as well as the license of any other person by whom the person is employed, over which the person has control, or as to which the person is the current or proposed qualifying individual or current or proposed branch manager."

SECTION 3. G.S. 53-244.115 reads as rewritten:

"§ 53-244.115. Investigation and examination authority.

(a) For purposes of initial licensing, license renewal, suspension, conditioning, revocation, or termination, or general or specific inquiry, investigation, or examination to determine compliance with this Article, the Commissioner ~~may, at the expense of the applicant or licensee,~~ may access, receive, and use any books, accounts, records, files, documents, information, or evidence, including:

- (1) Criminal, civil, and administrative history information, including nonconviction data;
- (2) Personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and
- (3) Any other documents, information, or evidence the Commissioner deems relevant to the inquiry, investigation, or examination regardless of the location, possession, control, or custody of the documents, information, or evidence.

(b) For purposes of investigating violations or complaints arising under this Article, or for the purposes of examination, the Commissioner may review, investigate, or examine any licensee, individual, or person subject to this Article as often as necessary in order to carry out the purposes of this Article. The Commissioner may interview the officer, principals, person with control, qualified individual, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person concerning their business. The Commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any examination or investigation and may direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents the Commissioner deems relevant to the inquiry. ~~The reasonable cost of the investigation or examination shall be charged against the licensee, individual, or person subject to this Article. The assessment set forth in G.S. 53-244.100A is for the purpose of meeting the cost of regulation under this Article. Any investigation or examination that, in the opinion of the Commissioner of Banks, requires extraordinary review, investigation, or special examination shall be subject to the actual costs of additional expenses and the hourly rate for the staff's time, to be determined annually by the Banking Commission.~~

(c) Each licensee, individual, or person subject to this Article shall make available to the Commissioner upon request the books and records relating to the operations of the licensee, individual, or person. No licensee, individual, or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any

books, records, computer records, or other information. Each licensee, individual, or person subject to this Article shall also make available for interview by the Commissioner the officers, principals, persons with control, qualified individuals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person concerning their business.

(d) Each licensee, individual, or person subject to this Article shall make or compile such reports or prepare other information as may be directed or requested by the Commissioner in order to carry out the purposes of this section, including:

- (1) Accounting compilations;
- (2) Information lists and data concerning loan transactions in a format prescribed by the Commissioner;
- (3) Periodic reports, including:
 - a. Annual Report Questionnaire,
 - b. Servicer Activity Report,
 - c. Servicer Schedule of the Ranges of Costs and Fees,
 - d. Lender/Servicer Audited Statements of Financial Condition,
 - e. Broker Certified Statements of Financial Condition, and
 - f. Quarterly Loan Origination Reports.
- (4) Any other information deemed necessary to carry out the purposes of this section.

(e) In making any examination or investigation authorized by this Article, the Commissioner may control access to any documents and records of the licensee or person under examination or investigation. The Commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the Commissioner. Unless the Commissioner has reasonable grounds to believe the documents or records of the licensee have been or are at risk of being altered or destroyed for purposes of concealing a violation of this Article, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business.

(f) In order to carry out the purposes of this section, the Commissioner may:

- (1) Retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;
- (2) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, documents, records, information, or evidence obtained under this section;
- (3) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this Article;
- (4) Accept and rely on examination or investigation reports made by other government officials, within or without this State; or
- (5) Accept audit reports made by an independent certified public accountant for the licensee, individual, or person in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the Commissioner.

(g) In addition to the authority granted by G.S. 53-244.113 and G.S. 53-244.115, the Commissioner is authorized to take action, including summary suspension of the license, if the licensee fails, within 20 days or a lesser time if specifically requested for good cause, to:

- (1) Respond to inquiries from the Commissioner or the Commissioner's designee regarding any complaints filed against the licensee that allege or appear to involve violation of this Article or any law or rule affecting the mortgage lending business;
- (2) Respond 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; or
- (3) Consent to a criminal history record check. The refusal shall constitute grounds for the Commissioner to deny licensure to the applicant as well as to any entity:
 - a. By whom or by which the applicant is employed,
 - b. Over which the applicant has control, or
 - c. As to which the applicant is the current or proposed qualifying individual or a current or proposed branch manager.

(h) The authority of this section shall remain in effect, whether a licensee, individual, or person subject to this Article acts or claims to act under any licensing law of the State, or claims to act without such authority."

SECTION 4. G.S. 53-244.119(e) is repealed.

SECTION 5. This act becomes effective October 1, 2012.

In the General Assembly read three times and ratified this the 14th day of June, 2012.

Became law upon approval of the Governor at 11:57 p.m. on the 20th day of June, 2012.

Session Law 2012-38

H.B. 149

AN ACT TO CREATE THE CRIMINAL OFFENSE OF TERRORISM.

Whereas, closed community compounds are located across the United States and near the borders of this State; and

Whereas, these compounds have limited public access and are reputed to be bound together by a common purpose or ideology; and

Whereas, there have been reports of weapons fire and military-type training occurring at some of these compounds; and

Whereas, a defendant who was convicted of the attempted murder of nine students at the University of North Carolina at Chapel Hill as an act of revenge for enemy casualties of war was not charged under federal domestic terrorism laws; and

Whereas, the current State criminal statutes do not sufficiently recognize the increased danger to the public and do not sanction appropriately acts of terrorism; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"Article 3A.

"Terrorism.

"§ 14-10.1. Terrorism.

(a) As used in this section, the term "act of violence" means a violation of G.S. 14-17; a felony punishable pursuant to G.S. 14-18; any felony offense in this Chapter that includes an assault, or use of violence or force against a person; any felony offense that includes either the

threat or use of any explosive or incendiary device; or any offense that includes the threat or use of a nuclear, biological, or chemical weapon of mass destruction.

(b) A person is guilty of the separate offense of terrorism if the person commits an act of violence with the intent to do either of the following:

- (1) Intimidate the civilian population at large, or an identifiable group of the civilian population.
- (2) Influence, through intimidation, the conduct or activities of the government of the United States, a state, or any unit of local government.

(c) A violation of this section is a felony that is one class higher than the offense which is the underlying act of violence, except that a violation is a Class B1 felony if the underlying act of violence is a Class A or Class B1 felony offense. A violation of this section is a separate offense from the underlying offense and shall not merge with other offenses.

(d) All real and personal property of every kind used or intended for use in the course of, derived from, or realized through an offense punishable pursuant to this Article shall be subject to lawful seizure and forfeiture to the State as set forth in G.S. 14-2.3 and G.S. 14-7.20. However, the forfeiture of any real or personal property shall be subordinate to any security interest in the property taken by a lender in good faith as collateral for the extension of credit and recorded as provided by law, and no real or personal property shall be forfeited under this section against an owner who made a bona fide purchase of the property, or a person with rightful possession of the property, without knowledge of a violation of this Article."

SECTION 2. G.S. 14-7.20 reads as rewritten:

"§ 14-7.20. Continuing criminal enterprise.

(a) Any-Except as otherwise provided in subsection (a1) of this section, any person who engages in a continuing criminal enterprise shall be punished as a Class H felon and in addition shall be subject to the forfeiture prescribed in subsection (b) of this section.

(a1) Any person who engages in a continuing criminal enterprise where the felony violation required by subdivision (c)(1) of this section is a violation of G.S. 14-10.1 shall be punished as a Class D felon and, in addition, shall be subject to the forfeiture prescribed in subsection (b) of this section.

(b) Any person who is convicted under subsection (a) or (a1) of this section of engaging in a continuing criminal enterprise shall forfeit to the State of North Carolina:

- (1) The profits obtained by the person in the enterprise, and
- (2) Any of the person's interest in, claim against, or property or contractual rights of any kind affording a source of influence over, such enterprise.

(c) For purposes of this section, a person is engaged in a continuing criminal enterprise if:

- (1) The person violates any provision of this Chapter, the punishment of which is a felony; and
- (2) The violation is a part of a continuing series of violations of this Chapter:

 - a. Which are undertaken by the person in concert with five or more other persons with respect to whom the person occupies a position of organizer, a supervisory position, or any other position of management; and
 - b. From which the person obtains substantial income or resources."

SECTION 3. This act becomes effective December 1, 2012, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 12th day of June, 2012.

Became law upon approval of the Governor at 11:30 a.m. on the 20th day of June, 2012.

Session Law 2012-39

H.B. 176

AN ACT TO PROVIDE FOR REVIEW OF A DEFENDANT'S PARTICIPATION IN A COURT-ORDERED ABUSER TREATMENT PROGRAM, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE, AND TO EXPAND THE TYPES OF OFFENSES REPORTED BY THE CLERK.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1343(b) reads as rewritten:

- "(b) Regular Conditions. – As regular conditions of probation, a defendant must:
- (1) Commit no criminal offense in any jurisdiction.
 - (2) Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer.
 - (3) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment.
 - (4) Satisfy child support and other family obligations as required by the court. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c).
 - (5) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court.
 - (6) Pay a supervision fee as specified in subsection (c1).
 - (7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. A defendant pursuing a course of study or of vocational training shall abide by all of the rules of the institution providing the education or training, and the probation officer shall forward a copy of the probation judgment to that institution and request to be notified of any violations of institutional rules by the defendant.
 - (8) Notify the probation officer if he fails to obtain or retain satisfactory employment.
 - (9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d).
 - (10) Pay the State of North Carolina for the costs of appointed counsel, public defender, or appellate defender to represent him in the case(s) for which he was placed on probation.
 - (11) At a time to be designated by his probation officer, visit with his probation officer a facility maintained by the Division of Prisons.
 - (12) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) there is a program, approved by the Domestic Violence Commission, reasonably available to the defendant, unless the court finds that such would not be in the best interests of justice. A defendant attending an abuser treatment program shall abide by all of the rules of the program. If the defendant is discharged from the program for failure to comply with the program or its rules, such noncompliance shall be reported to the court. The probation officer shall forward a copy of the judgment, including all conditions of probation to the program, and the abuser treatment program shall notify the probation officer of any violations of program rules by the defendant.

- (13) Submit at reasonable times to warrantless searches by a probation officer of the probationer's person and of the probationer's vehicle and premises while the probationer is present, for purposes directly related to the probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.
- (14) Submit to warrantless searches by a law enforcement officer of the probationer's person and of the probationer's vehicle, upon a reasonable suspicion that the probationer is engaged in criminal activity or is in possession of a firearm, explosive device, or other deadly weapon listed in G.S. 14-269 without written permission of the court.
- (15) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

A defendant shall not pay costs associated with a substance abuse monitoring program or any other special condition of probation in lieu of, or prior to, the payments required by this subsection.

In addition to these regular conditions of probation, a defendant required to serve an active term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned and report to a probation officer in the State of North Carolina within 72 hours of his discharge from the active term of imprisonment.

Regular conditions of probation apply to each defendant placed on supervised probation unless the presiding judge specifically exempts the defendant from one or more of the conditions in open court and in the judgment of the court. It is not necessary for the presiding judge to state each regular condition of probation in open court, but the conditions must be set forth in the judgment of the court.

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the regular conditions contained in subdivisions (2), (3), (6), (8), (11), (13), (14), and (15) of this subsection. If a defendant placed on unsupervised probation is subject to the condition contained in subdivision (12) of this subsection, the court shall schedule a compliance review hearing within 60 days of judgment and every 60 days thereafter until the defendant completes the abuser treatment program."

SECTION 2. G.S. 15A-1382.1 reads as rewritten:

"§ 15A-1382.1. Reports of disposition; domestic violence; sentencing.

(a) When a defendant is found guilty of an offense involving assault, ~~or~~ communicating a threat, or any of the acts as defined in G.S. 50B-1(a), the presiding judge shall determine whether the defendant and victim had a personal relationship. If the judge determines that there was a personal relationship between the defendant and the victim, then the judge shall indicate on the form reflecting the judgment that the case involved domestic violence. The clerk of court shall insure that the official record of the defendant's conviction includes the court's determination, so that any inquiry into the defendant's criminal record will reflect that the offense involved domestic violence.

~~(b) If the presiding judge determines that there was a personal relationship between the defendant and the victim, and a sentence to community punishment is imposed, the judge shall determine whether the defendant shall comply with one or more of the special conditions of probation set forth at G.S. 15A-1343(b1), in addition to any other authorized punishment. Notwithstanding the provisions of G.S. 15A-1340.11(6)c, the court may require the defendant to comply with the provisions of G.S. 15A-1343(b1)(3c).~~

(c) The following definitions apply to this section:

- (1) "An offense involving assault" includes any offense where an assault occurred, whether or not the conviction is for an offense under Article 8 of Chapter 14 of the General Statutes.
- (2) "Inquiry" shall include any lawful review of the criminal records of persons convicted of an offense in this State, whether by law enforcement personnel or by private individuals.
- (3) "Personal relationship" is as defined in G.S. 50B-1(b)."

SECTION 3. This act becomes effective December 1, 2012, and applies to defendants placed on probation on or after that date.

In the General Assembly read three times and ratified this the 12th day of June, 2012.

Became law upon approval of the Governor at 11:34 a.m. on the 20th day of June, 2012.

Session Law 2012-40

H.B. 235

AN ACT TO AMEND THE LAWS PERTAINING TO TERMINATION OF PARENTAL RIGHTS TO INCLUDE CONVICTION OF A SEXUALLY RELATED OFFENSE THAT RESULTS IN THE CONCEPTION OF THE JUVENILE AS A BASIS FOR TERMINATION OF PARENTAL RIGHTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-1111(a) is amended by adding the following subdivision to read:

"(a) The court may terminate the parental rights upon a finding of one or more of the following:

...

- (11) The parent has been convicted of a sexually related offense under Chapter 14 of the General Statutes that resulted in the conception of the juvenile."

SECTION 2. This act becomes effective October 1, 2012.

In the General Assembly read three times and ratified this the 13th day of June, 2012.

Became law upon approval of the Governor at 11:36 a.m. on the 20th day of June, 2012.

Session Law 2012-41

H.B. 261

AN ACT TO REQUIRE INTRASTATE MOTOR CARRIERS TO BE MARKED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-101 reads as rewritten:

"§ 20-101. **Certain business vehicles to be marked.**

(a) A motor vehicle that is subject to 49 C.F.R. Part 390, the federal motor carrier safety regulations, shall be marked as required by that Part.

(b) A motor vehicle with a gross vehicle weight rating of more than ~~10,000~~ 26,000 pounds that is used in intrastate commerce shall have (i) the name of the owner and (ii) the motor carrier's identification number preceded by the letters "USDOT" and followed by the letters "NC" printed on each side of the vehicle in letters not less than three inches in height, unless either of the following applies: than three inches in height. The provisions of this subsection shall not apply if any of the following are true:

- (1) The motor vehicle is subject to 49 C.F.R. Part 390.
- (2) ~~The motor vehicle is a farm vehicle as further described in G.S. 20-118(e)(4), (e)(5), or (e)(12).~~ The motor vehicle is of a type listed in 49 C.F.R. 390.3(f).

(c) A motor vehicle that is subject to regulation by the North Carolina Utilities Commission shall be marked as required by that Commission and as otherwise required by this section.

(d) A motor vehicle equipped to tow or transport another motor vehicle, hired for the purpose of towing or transporting another motor vehicle, shall have the name and address of the registered owner of the vehicle, and the name of the business or person being hired if different, printed on ~~the each~~ side of the vehicle in letters not less than three inches in height. This subsection shall not apply to motor vehicles subject to 49 C.F.R. Part 390."

SECTION 2. This act becomes effective December 1, 2012, and applies to offenses committed on or after that date. During the period from December 1, 2012, to November 30, 2013, an operator of a motor vehicle who violates this act shall be given a warning of violation only.

In the General Assembly read three times and ratified this the 13th day of June, 2012.

Became law upon approval of the Governor at 11:39 a.m. on the 20th day of June, 2012.

Session Law 2012-42

H.B. 490

AN ACT TO NAME THE YADKIN RIVER BRIDGE AT THE DAVIDSON AND ROWAN COUNTY LINES THE "YADKIN RIVER VETERANS MEMORIAL BRIDGE."

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Transportation shall name that portion of Interstate 85 known as the Yadkin River Bridge, over the Yadkin River and between Rowan and Davidson Counties, the Yadkin River Veterans Memorial Bridge.

SECTION 2. G.S. 136-17.2A(i) reads as rewritten:

"(i) All funds used in repayment of "GARVEE" bonds issued pursuant to G.S. 136-18(12b), except for funds used in repayment of "GARVEE" bonds related to Phase I of the Yadkin River Veterans Memorial Bridge project, shall be subject to the provisions of this section."

SECTION 3. G.S. 136-89.183C reads as rewritten:

"§ **136-89.183C. Accelerated Yadkin River Bridge Replacement Project.**

(a) Contract for Accelerated Construction of the Yadkin River Veterans Memorial Bridge Replacement Bridge Project. – The Authority shall study, plan, develop, undertake preliminary design work, and analyze and list all necessary permits, in preparation for construction of a replacement bridge and approaches for the Yadkin River Veterans Memorial Bridge over the Yadkin River and between Rowan and Davidson Counties, in order to provide accelerated, efficient, and cost-effective completion of the project.

(b) Replacement Bridge; Termini. – The bridge constructed pursuant to this section shall be a replacement bridge, with north and south termini located in general proximity to the termini of the existing Yadkin River Veterans Memorial Bridge."

SECTION 4. G.S. 136-188(b) reads as rewritten:

"(b) The initial project funded from the Mobility Fund shall be the widening and improvement of Interstate 85 north of the Yadkin River Veterans Memorial Bridge."

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

In the General Assembly read three times and ratified this the 14th day of June, 2012.

Became law upon approval of the Governor at 11:43 a.m. on the 20th day of June, 2012.

Session Law 2012-43**S.B. 824**

AN ACT TO REQUIRE THE SECRETARY OF REVENUE'S INTERPRETATION OF THE LAW CONCERNING THE SECRETARY'S AUTHORITY TO ADJUST NET INCOME OR REQUIRE A COMBINED RETURN BE MADE THROUGH RULE MAKING AND TO PROVIDE AN EXPEDITED PROCESS FOR RULE MAKING ON THIS ISSUE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-262(b) is repealed.

SECTION 2. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-262.1. Rules to exercise authority under G.S. 105-130.5A.

(a) Purpose and Scope. – It is the policy of the State to provide necessary guidance on a timely basis to corporate taxpayers subject under G.S. 105-130.5A to have their net income adjusted or to be required to file a combined return. Except for a voluntary redetermination as allowed under G.S. 105-130.5A(c), the Secretary may not redetermine the State net income of a corporation properly attributable to its business carried on in the State under G.S. 105-130.5A until a rule adopted by the Secretary in accordance with this section becomes effective. This section provides an expedited procedure for the adoption of rules needed to administer G.S. 105-130.5A. The Secretary may not interpret G.S. 105-130.5A in the form of a bulletin or directive under G.S. 105-264.

The Secretary is exempt from G.S. 150B-21.1 through G.S. 150B-21.4 of Part 2 of Article 2A of Chapter 150B of the General Statutes but is subject to the expedited procedure for the adoption of rules as established by this section. The Secretary is exempt from Part 3 of Article 2A of Chapter 150B of the General Statutes but is subject to the expedited review procedure as established by this section.

(b) Definitions. – The definitions in G.S. 150B-2 apply in this section.

(c) Fiscal Note. – The Secretary must prepare a fiscal note for a proposed new rule or a proposed change to a rule that has a substantial economic impact. The fiscal note must be submitted with the proposed rule when the rule is submitted to the Codifier of Rules, and the Codifier of Rules must publish the fiscal note with the proposed rule on the Internet. The Secretary must accept a written comment on the fiscal note in the same manner the Secretary accepts written comments on the proposed rule. The Secretary is not subject to the fiscal note requirement under G.S. 105-262(c). For purposes of this section, a "substantial economic impact" has the same meaning as defined in G.S. 150B-21.4(b1).

(d) Adoption. – The Secretary may adopt a rule under this section by using the procedure for adoption of a temporary rule set forth in G.S. 150B-21.1(a3). The Secretary must provide electronic notification of the adoption of a rule to persons on the mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties, including those originally given notice of the rule making and those who provided comment on the rule. If the Secretary receives written comment objecting to the rule and requesting review by the Commission, the rule must be reviewed in accordance with subsections (e) through (i) of this section. A person may object to the rule and request review by the Commission at any point prior to the adoption of the rule and by 5:00 P.M. on the third business day following electronic

notification from the Secretary of the adoption of a rule. If the Secretary receives no written comment objecting to the rule and requesting review by the Commission, the Secretary must deliver the rule to the Codifier of Rules. The Codifier of Rules must enter the rule into the North Carolina Administrative Code upon receipt of the rule.

(e) Review. – If the Secretary receives written comment objecting to the rule and requesting review by the Commission, the Secretary must submit the rule to the Commission for review. The Commission may not consider questions relating to the quality or efficacy of the rule but must restrict its review to a determination of whether the rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.
- (3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission must consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.
- (4) It was adopted in accordance with this section.

(f) Manner of Review. – When the Commission reviews a rule under this section, the time limits in subsections (b) and (b1) of G.S. 150B-21.1 apply. The Commission must review the rule to determine whether the rule meets the standards in subsection (e) of this section. The Commission must direct a member of its staff who is an attorney licensed to practice law in North Carolina to review the rule. The staff member must make a recommendation to the Commission or its designee. The Commission's designee must be a panel of at least three members of the Commission. The staff member, Commission's designee, or the Commission may also request technical changes as allowed in G.S. 150B-21.10. In reviewing the rule, the Commission may consider any information submitted by the Secretary or another person.

(g) Objection. – If the Commission or its designee finds that the rule does not meet the standards in subsection (e) of this section and objects to the rule, the Commission or its designee must send the Secretary a written statement of the objection and the reason for the objection within one business day. The Secretary must take one of the following actions:

- (1) Change the rule to satisfy the Commission's objection and submit the revised rule to the Commission.
- (2) Submit a written response to the Commission indicating that the Secretary has decided not to change the rule.

(h) Changes. – When the Secretary changes a rule in response to an objection by the Commission, the Commission must determine whether the change satisfies the Commission's objection. If it does, the Commission must approve the rule. If it does not, the Commission must send the Secretary a written statement of the Commission's continued objection and the reason for the continued objection.

(i) Approval. – If the Commission or its designee finds that the rule meets the standards in subsection (e) of this section, the Commission or its designee must approve the rule and deliver the rule to the Codifier of Rules. The Codifier of Rules must enter the rule into the North Carolina Administrative Code upon receipt from the Commission or its designee.

(j) Return of Rule. – A rule to which the Commission has objected remains under review by the Commission until the Secretary decides not to satisfy the Commission's objection and makes a written request to the Commission to return the rule to the Secretary. When the Commission returns a rule to the Secretary in accordance with this section, the Secretary may file an action for declaratory judgment in Wake County Superior Court pursuant to Article 26 of Chapter 1 of the General Statutes.

(k) Effective Date. – G.S. 150B-21.3 does not apply to a rule adopted under this section. A rule adopted under this section becomes effective on the last day of the month the Codifier of Rules enters the rule in the North Carolina Administrative Code."

SECTION 3. G.S. 150B-1(d)(4) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

- (4) The Department of Revenue, with respect to the notice and hearing requirements contained in Part 2 of Article 2A, With respect to the Secretary of Revenue's authority to redetermine the State net taxable income of a corporation under G.S. 105-130.5A, the Department is subject to the rule-making requirements of G.S. 105-262.1.

...."

SECTION 4. On June 30, 2011, the Governor signed into law S.L. 2011-390, House Bill 619, as passed by the General Assembly. The law repealed the Secretary of Revenue's authority to adjust a corporation's net income or require a combined return under G.S. 105-130.6, 105-130.15, and 105-130.16 and replaced it with a new authority under G.S. 105-130.5A. The Fiscal Research Division of the North Carolina General Assembly prepared a fiscal memo on House Bill 619. Therefore, notwithstanding G.S. 105-262.1, as enacted by Section 2 of this act, G.S. 105-262(c), and Section 7 of the Budget Manual prepared by the Office of State Budget and Management, the Secretary of Revenue shall not be required to prepare a fiscal note for a proposed new rule submitted to the Codifier of Rules under G.S. 105-262.1, as enacted by this act, prior to December 31, 2012.

SECTION 5. On April 17, 2012, the Department of Revenue published a directive pursuant to G.S. 105-264, CD-12-02, that explains the Secretary's authority under G.S. 105-130.5A to redetermine a corporation's net income by adjusting the corporation's intercompany transactions or requiring a corporation to file a combined income tax return for tax years beginning on or after January 1, 2012. This act supersedes the Directive; however, a taxpayer who relied upon the interpretation in the Directive and whose North Carolina taxable income for the 2012 taxable year is less under the Directive's interpretation than under an interpretation of G.S. 105-130.5A by a rule adopted pursuant to G.S. 105-262.1, as enacted by this act, is entitled to rely on the interpretation under the Directive for the 2012 taxable year.

SECTION 6. S.L. 2011-390, as amended by S.L. 2011-411, enacted G.S. 105-130.5A, effective for taxable years beginning on or after January 1, 2012. The Secretary of Revenue's authority under G.S. 105-130.5A exists continuously for taxable years beginning on or after January 1, 2012. G.S. 105-262.1, as enacted by Section 2 of this act, prevents the Secretary from exercising the authority granted under G.S. 105-130.5A until a rule adopted in accordance with G.S. 105-262.1 becomes effective. After the rule becomes effective, the Secretary may issue a proposed denial of a refund or a proposed assessment under the authority of G.S. 105-130.5A for any taxable year beginning on or after January 1, 2012, subject to the applicable statute of limitations.

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

In the General Assembly read three times and ratified this the 14th day of June, 2012.

Became law upon approval of the Governor at 12:01 p.m. on the 20th day of June, 2012.

Session Law 2012-44

S.B. 889

AN ACT TO CHANGE THE DEFINITION ON AN AREA THAT CAN BE REPRESENTED BY A RURAL PLANNING ORGANIZATION, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-211 reads as rewritten:

"§ 136-211. **Department authorized to establish Rural Transportation Planning Organizations.**

(a) **Authorization.** – The Department of Transportation is authorized to form Rural Transportation Planning Organizations.

(b) **Area Represented.** – Rural Transportation Planning Organizations shall include representatives from contiguous areas in three to fifteen counties, ~~with or~~ a total population of the entire area represented of at least 50,000 persons according to the latest population estimate of the ~~Office of State Planning~~ Office of State Budget and Management. Noncontiguous counties adjacent to the same Metropolitan Planning Organization may form a Rural Transportation Planning Organization. Areas already included in a Metropolitan Planning Organization shall not be included in the area represented by a Rural Transportation Planning Organization.

(c) **Membership.** – The Rural Transportation Planning Organization shall consist of local elected officials or their designees and representatives of local transportation systems in the area as agreed to by all parties in a memorandum of understanding.

(d) **Formation; Memorandum of Understanding.** – The Department shall notify local elected officials and representatives of local transportation systems around the State of the opportunity to form Rural Transportation Planning Organizations. The Department shall work cooperatively with interested local elected officials, their designees, and representatives of local transportation systems to develop a proposed area, membership, functions, and responsibilities of a Rural Transportation Planning Organization. The agreement of all parties shall be included in a memorandum of understanding approved by the membership of a proposed Rural Transportation Planning Organization and the Secretary of the Department of Transportation."

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

In the General Assembly read three times and ratified this the 14th day of June, 2012.

Became law upon approval of the Governor at 12:03 p.m. on the 20th day of June, 2012.

Session Law 2012-45

S.B. 929

AN ACT TO REVISE THE RESIDENCY REQUIREMENTS FOR MEMBERS OF THE BOARD OF TRUSTEES OF A FIREMEN'S LOCAL RELIEF FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-84-25(d) reads as rewritten:

"(d) **Administration.** – These funds shall be held by the treasurer of a fire district as a separate and distinct fund. The fire district shall immediately pay the funds to the treasurer of the local board of trustees upon the treasurer's election and qualification, for the use of the board of trustees of the firemen's local relief fund in each fire district, which board shall be composed of five members, ~~residents of the fire district as hereinafter provided for~~, to be used by it for the purposes provided in G.S. 58-84-35."

SECTION 2. G.S. 58-84-30 reads as rewritten:

"§ 58-84-30. **Trustees appointed; organization.**

For each county, town or city complying with and deriving benefits from the provisions of this Article, there shall be appointed a local board of trustees, known as the trustees of the Firefighters' Relief Fund, to be composed of five members, two of whom shall be elected by the members of the local fire department ~~or departments~~ who are qualified as beneficiaries of such fund, two of whom shall be elected by the mayor and board of aldermen or other local governing body, and one of whom shall be named by the Commissioner of Insurance. Their selection and term of office shall be as follows:

- (1) The members of the fire department shall hold an election each January to elect their representatives to above board. In January 1950, the firefighters shall elect one member to serve for two years and one member to serve for one year, then each year in January thereafter, they shall elect only one member and his term of office shall be for two years. Members elected pursuant to this section shall be either (i) residents of the fire district or (ii) active or retired members of the fire department.
- (2) The mayor and board of aldermen or other local governing body shall appoint, in January 1950, two representatives to above board, one to hold office for two years and one to hold office for one year, and each year in January thereafter they shall appoint only one representative and his term of office shall be for two years. Members appointed pursuant to this section shall be residents of the fire district.
- (3) The Commissioner of Insurance shall appoint one representative to serve as trustee and he shall serve at the pleasure of the Commissioner. The member appointed pursuant to this section shall be either (i) a resident of the fire district or (ii) an active or retired member of the fire department.

All of the above trustees shall hold office for their elected or appointed time, or until their successors are elected or appointed, and shall serve without pay for their services. They shall immediately after election and appointment organize by electing from their members a chairman and a secretary and treasurer, which two last positions may be held by the same person. The treasurer of said board of trustees shall give a good and sufficient surety bond in a sum equal to the amount of moneys in his hand, to be approved by the Commissioner of Insurance. The cost of this bond may be deducted by the Insurance Commissioner from the receipts collected pursuant to G.S. 58-84-10 before distribution is made to local relief funds. If the chief or chiefs of the local fire departments are not named on the board of trustees as above provided, then they shall serve as ex officio members without privilege of voting on matters before the board."

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

In the General Assembly read three times and ratified this the 19th day of June, 2012.

Became law upon approval of the Governor at 12:07 p.m. on the 20th day of June, 2012.

Session Law 2012-46

H.B. 199

AN ACT TO RECODIFY THE PROVISIONS OF THE GENERAL STATUTES THAT REGULATE PRECIOUS METALS BUSINESSES, PAWNBROKERS AND CASH CONVERTERS, AND SECONDARY METALS RECYCLERS, AND TO STRENGTHEN METALS THEFT PREVENTION BY REQUIRING PERMITTING OF NONFERROUS METALS PURCHASERS, MAKING IT A CRIME TO CUT, MUTILATE, DEFACE, OR OTHERWISE INJURE THE PROPERTY OF ANOTHER TO OBTAIN NONFERROUS METALS, CREATING RELATED CRIMINAL OFFENSES, AND MAKING OTHER RELATED CHANGES TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 45."Pawnbrokers, Metal Dealers, and Scrap Dealers."

SECTION 2. Chapter 91A of the General Statutes is recodified as Part 1 of Article 45 of Chapter 66 of the General Statutes, G.S. 66-385 through G.S. 66-399.

SECTION 3. The title of Part 1 of Article 45 of Chapter 66 of the General Statutes, as enacted by Section 2 of this act, reads as rewritten:

"Part 1. Pawnbrokers and Cash ~~Converters Modernization Act~~.Converters."

SECTION 4. G.S. 91A-1, as recodified by Section 2 of this act, reads as rewritten:
"§ 66-385. **Short title.**

This ~~Chapter~~Part shall be known and may be cited as the Pawnbrokers and Cash Converters Modernization Act."

SECTION 5. G.S. 91A-2, as recodified by Section 2 of this act, reads as rewritten:
"§ 66-386. **Purpose.**

The making of pawn loans and the acquisition and disposition of tangible personal property by and through pawnshops and cash converters vitally affects the general economy of this State and the public interest and welfare of its citizens. In recognition of these facts, it is the policy of this State and the purpose of the Pawnbrokers and Cash Converters Modernization Act to do all of the following:

- (1) Ensure a sound system of making loans and acquiring and disposing of tangible personal property by and through pawnshops, and to prevent unlawful property transactions, particularly in stolen property, through licensing and regulating pawnbrokers.
- ~~(1a)~~(2) Ensure a sound system of acquiring and disposing of tangible personal property by and through cash converters and to prevent unlawful property transactions, particularly in stolen property, by requiring record keeping by cash converters.
- ~~(2)~~(3) Provide for pawnbroker licensing fees and investigation fees of licensees.
- ~~(3)~~(4) Ensure financial responsibility to the State and the general public.
- ~~(4)~~(5) Ensure compliance with federal and State laws.
- ~~(5)~~(6) Assist local governments in the exercise of their police authority."

SECTION 6. G.S. 91A-3, as recodified by Section 2 of this act, reads as rewritten:
"§ 66-387. **Definitions.**

The following definitions apply in this ~~Chapter~~Part:

...

- (2) Cash converter. – A person engaged in the business of purchasing goods from the public for cash at a permanently located retail store who holds himself or herself out to the public by signs, advertising, or other methods as engaging in that business. The term does not include any of the following:
 - a. Pawnbrokers.
 - b. Persons whose goods purchases are made directly from manufacturers or wholesalers for their inventories.
 - c. Precious metals dealers, to the extent that their transactions are regulated under ~~Article 25 of Chapter 66 of the General Statutes~~Part 2 of this Article.
 - d. Purchases by persons primarily in the business of obtaining from the public, either by purchase or exchange, used clothing, children's furniture, and children's products, provided the amount paid for the individual item purchased is less than fifty dollars (\$50.00).
 - e. Purchases by persons primarily in the business of obtaining from the public, either by purchase or exchange, sporting goods and sporting equipment, provided the amount paid for the individual item purchased is less than fifty dollars (\$50.00).

...."

SECTION 7. G.S. 91A-5, as recodified by Section 2 of this act, reads as rewritten:

"§ 66-389. License required.

It is unlawful for any person, firm, or corporation to establish or conduct a business of pawnbroker unless such person, firm, or corporation has procured a license to conduct business in compliance with the requirements of this ~~Chapter-Part~~."

SECTION 8. G.S. 91A-6(c) and (d), as recodified by Section 2 of this act, read as rewritten:

"(c) Licenses shall be granted under this ~~Chapter-Part~~ by the city if the pawnshop is to be operated within the corporate limits of a city as defined by G.S. 160A-1, and by a county if it is to be operated outside the corporate limits of any city as defined by G.S. 160A-1.

(d) Any license granted under this ~~Chapter-Part~~ may be revoked by the county or city issuing it, after a hearing, for substantial abuses of this ~~Chapter-Part~~ by the licensee."

SECTION 9. G.S. 91A-7(e), as recodified by Section 2 of this act, reads as rewritten:

"(e) Except as otherwise provided in this ~~Chapter-Part~~, any person presenting a pawn ticket to a pawnbroker is presumed to be entitled to redeem the pledged goods described on the ticket."

SECTION 10. G.S. 91A-10(a), as recodified by Section 2 of this act, reads as rewritten:

"§ 66-395. Prohibitions.

(a) A pawnbroker shall not:

- (1) Accept a pledge from a person under the age of 18 years.
- (2) Make any agreement requiring the personal liability of a pledgor in connection with a pawn transaction.
- (3) Accept any waiver, in writing or otherwise, of any right or protection accorded a pledgor under this ~~Chapter-Part~~.
- (4) Fail to exercise reasonable care to protect pledged goods from loss or damage.
- (5) Fail to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction. In the event such pledged goods are lost or damaged while in the possession of the pawnbroker, it shall be the responsibility of the pawnbroker to replace the lost or damaged goods with merchandise of like kind and equivalent value. In the event the pledgor and pawnbroker cannot agree as to replacement, the pawnbroker shall reimburse the pledgor in the amount of the value agreed upon pursuant to ~~G.S. 91A-7(b)~~G.S. 66-391(b).
- (6) Take any article in pawn, pledge, or as security from any person, which is known to such pawnbroker to be stolen, unless there is a written agreement with local or State law enforcement.
- (7) Sell, exchange, barter, or remove from the pawnshop any goods pledged, pawned, or purchased before the earlier of seven days after the date the pawn ticket record is electronically reported in accordance with ~~G.S. 91A-7(d)~~G.S. 66-391(d) or 30 days after the transaction, except in case of redemption by pledgor or items purchased for resale from wholesalers.
- (8) Operate more than one pawnshop under one license, and such shop must be at a permanent place of business.
- (9) Take as pledged goods any manufactured mobile home, recreational vehicle, or motor vehicle other than a motorcycle."

SECTION 11. G.S. 91A-11, as recodified by Section 2 of this act, reads as rewritten:

"§ 66-396. Penalties.

(a) Every person, firm, or corporation, their guests or employees, who shall knowingly violate any of the provisions of this ~~Chapter, Part~~, shall, on conviction thereof, be deemed guilty of a Class 2 misdemeanor. If the violation is by an owner or major stockholder or managing partner of the pawnshop and the violation is knowingly committed by the owner, major stockholder, or managing partner of the pawnshop, then the license of the pawnshop may be suspended at the discretion of the court.

(b) The provision of subsection (a) of this section shall not apply to violations of ~~G.S. 91A-10(a)(6)~~G.S. 66-395(a)(6) or G.S. 66-395(b) which shall be prosecuted under the North Carolina criminal statutes.

(c) Any contract of pawn the making or collecting of which violates any provision of this ~~Chapter, Part~~, except as a result of accidental or bona fide error of computation, shall be void, and the licensee shall have no right to collect, receive or retain any interest or fee whatsoever with respect to such pawn."

SECTION 12. G.S. 91A-12, as recodified by Section 2 of this act, reads as rewritten:

"§ 66-397. Municipal or county authority.

All of the counties and cities as defined by G.S. 160A-1 may by ordinance adopt the provisions of this ~~Chapter-Part~~ and may adopt such further rules and regulations as the governing bodies of the counties and cities deem appropriate; provided, however, no county or city may regulate:

- (1) Interest, fees, or recovery charges;
- (2) Hours of operation, unless such regulation applies to businesses generally;
- (3) The nature of the business or type of pawn transaction; or
- (4) License fees in excess of rates set by the State."

SECTION 13. G.S. 91A-13, as recodified by Section 2 of this act, reads as rewritten:

"§ 66-398. License renewal.

Notwithstanding any provision of this ~~Chapter-Part~~ to the contrary, any person, firm, or corporation licensed as a pawnbroker on or before October 1, 1989, shall continue in force until the natural expiration thereof and all other provisions of this ~~Chapter-Part~~ shall apply to such license. Such pawnbroker shall be eligible for renewal of his license upon its expiration or subsequent renewals, provided such license complies with the requirements for renewal that were in effect immediately prior to October 1, 1989."

SECTION 14. G.S. 91A-14, as recodified by Section 2 of this act, reads as rewritten:

"§ 66-399. Bond.

Every person, firm, or corporation licensed under this ~~Chapter-Part~~ shall, at the time of receiving the license, file with the city or county issuing the license a bond payable to such city or county in the sum of five thousand dollars (\$5,000), to be executed by the licensee, and by two responsible sureties or a surety company licensed to do such business in this State, to be approved by the city or county, which shall be for the faithful performance of the requirements and obligations pertaining to the business so licensed. The city or county may sue for forfeiture of the bond upon a breach thereof. Any person who obtains a judgment against a pawnbroker and upon which judgment execution is returned unsatisfied may maintain an action in his own name upon the bond, to satisfy the judgment."

SECTION 15. Article 25 of Chapter 66 of the General Statutes is recodified as Part 2 of Article 45 of Chapter 66 of the General Statutes, G.S. 66-405 through G.S. 66-414.

SECTION 16. The title of Part 2 of Article 45 of Chapter 66 of the General Statutes, as enacted by Section 15 of this act, reads as rewritten:

"Part 2. ~~Regulation of~~ Precious Metal Businesses."

SECTION 17. G.S. 66-164, as recodified by Section 15 of this act, reads as rewritten:

"§ 66-406. Definitions.

The following definitions apply in this ~~Article~~Part:

- (1) Dealer. – A person who purchases precious metals from the public, other than by an exempted transaction, in the form of jewelry, flatware, silver services, or other forms and holds himself or herself out to the public by signs, advertising, or other methods as engaging in such purchases, including any independent contractor purchasing precious metals under any arrangement in any department store. An exempted transaction is one that is (i) not considered in determining whether a person is a dealer under this ~~Article~~Part and (ii) not subject to the requirements of this ~~Article~~Part, even if it is entered into by a person otherwise defined and regulated as a dealer. Exempted transactions are:
- a. Purchases directly from manufacturers or wholesalers of precious metals by permanently located retail merchants for their inventories.
 - b. Pawns, pledges, or purchases of items made of precious metals, if the transaction is entered into by a licensed pawnbroker and the transaction is regulated under the provisions of ~~Chapter 91A of the General Statutes~~Part 1 of this Article.
 - c. The acquisition of precious metals by a permanently located retail merchant through barter or exchange for other items sold in the ordinary course of the merchant's business, provided that the seller does not receive, as part of the transaction, any sum of money or any gift card or stored-value card, unless the card is redeemable only at that merchant's business.

...."

SECTION 18. G.S. 66-165, as recodified by Section 15 of this act, reads as rewritten:

"§ 66-407. Permits.

...

(b) Employee Requirements. – Every employee engaged in the precious metals purchasing business shall, within two business days of being so engaged, register his or her name and address with the local law enforcement agency and have his or her photograph taken by the agency. The employee also shall consent to a criminal history record check, which shall be performed by the local law enforcement agency. A person who refuses to consent to a criminal history record check shall not be employed by a dealer required to be licensed under this section. A person who has been convicted of a felony involving a crime of moral turpitude, larceny, receiving stolen goods, or of similar charges shall not be employed by a dealer required to be licensed under this section, unless the person has had his or her rights of citizenship restored pursuant to Chapter 13 of the General Statutes for five years or longer immediately preceding the date of registration. The agency shall issue to the employee a certificate of compliance with this section upon the applicant's payment of the sum of ten dollars (\$10.00) to the agency. The certificate shall be renewed annually for a three-dollar (\$3.00) fee and shall be posted in the work area of the registered employee. An employee is not subject to the requirements of this subsection if the employee is engaged in the precious metals purchasing business only incidentally to his or her main job responsibilities, and each precious metals transaction with which the employee is involved is overseen by a licensed dealer or registered employee. All records of transactions must be signed by the licensed dealer or registered employee at the time of the transaction, as required under ~~G.S. 66-169(a)~~G.S. 66-410(a).

The Department of Justice may provide a criminal history record check to the local law enforcement agency for an employee engaged in the precious metals business. The agency shall provide to the Department of Justice, along with the request, the fingerprints of the employee, any additional information required by the Department of Justice, and a form signed by the

employee consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The employee's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The agency shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge each employee a fee for conducting the checks of criminal history records authorized by this subsection.

(c) **Special Occasion Permit.** – A special occasion permit authorizes the permittee to purchase precious metals as a dealer participating in any trade shows, antique shows, and crafts shows conducted within the State. A special occasion permit shall be issued by any local law enforcement agency; provided, however, that a permittee under subsection (a) of this section shall apply for a special occasion permit with the local law enforcement agency that issued the dealer's permit. The Department of Public Safety shall approve the forms for both the application and the permit. The application shall be given under oath and notarized. A 30-day waiting period from the date of filing of the application is required prior to initial issuance of a permit.

Any dealer applying to a local law enforcement agency for a special occasion permit shall furnish the local law enforcement agency with the information required in an application for a dealer's permit as set forth in subsection (a) of this section. In addition, the applicant shall provide a physical address where any item included in a dealer purchase will be held for the period required under ~~G.S. 66-170~~G.S. 66-411. The physical address shall be the location where the purchase was made, unless another physical address within the law enforcement jurisdiction where the purchase was made is approved by the law enforcement agency that issues the permit. The items shall be available at all reasonable times for inspection on the premises by law enforcement agencies.

If the applicant for a special occasion permit is a partnership or association, all persons owning a ten percent (10%) or more interest in the partnership or association shall comply with the provisions of this subsection. Any such permits shall be issued in the name of the partnership or association.

If the applicant for a special occasion permit is a corporation, each officer, director and stockholder owning ten percent (10%) or more of the corporation's stock, of any class, shall comply with the provisions of this subsection. Any such permits shall be issued in the name of the corporation.

No permit shall be issued to an applicant who has been convicted of a felony involving a crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges in any federal court or a court of this or any other state, unless the applicant has had his or her rights of citizenship restored pursuant to Chapter 13 of the General Statutes for five years or longer immediately preceding the date of application. In the case of a partnership, association, or corporation, no permit shall be issued to any applicant with an officer, partner, or director who has been convicted of a felony involving a crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges in any federal court or a court of this or any other state, unless that person has had his or her rights of citizenship restored pursuant to Chapter 13 of the General Statutes for five years or longer immediately preceding the date of application.

The Department of Justice may provide a criminal history record check to the local law enforcement agency for a person who has applied for a permit through the agency. The agency shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's

criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The agency shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

The filing fee for a special occasion permit application is one hundred eighty dollars (\$180.00) to provide for the administrative cost of the local law enforcement agency including purchase of required forms and the cost of conducting the criminal history record check of the applicant. The fee is not refundable even if the permit is denied or is later suspended or revoked. A special occasion permit is in addition to and not in lieu of other business licenses and is not transferable. No person other than the dealer named on the permit and that dealer's employees may engage in the business of purchasing precious metals under the authority of the permit.

A special occasion permit is valid for 12 months from the date issued, unless earlier surrendered, suspended, or revoked. Application for renewal of a permit for an additional 12 months shall be on a form approved by the Department of Public Safety and shall be accompanied by a nonrefundable renewal fee of one hundred eighty dollars (\$180.00).

Each special occasion permit shall be posted in a prominent place on the premises of any show at which the permittee purchases precious metals."

SECTION 19. G.S. 66-167, as recodified by Section 15 of this act, reads as rewritten:

"§ **66-408. Perjury; punishment.**

Any person who shall willfully commit perjury in any application for a permit or exemption filed pursuant to this ~~Article-Part~~ shall be guilty of a Class 2 misdemeanor."

SECTION 20. G.S. 66-168, as recodified by Section 15 of this act, reads as rewritten:

"§ **66-409. Bond or trust account required.**

Before any permit shall be issued to a dealer pursuant to ~~G.S. 66-165~~, G.S. 66-407, the dealer shall execute a satisfactory cash or surety bond or establish a trust account with a licensed and insured bank or savings institution located in the State of North Carolina in the sum of ten thousand dollars (\$10,000). The bond or trust account shall be in favor of the State of North Carolina. A surety bond is to be executed by the dealer and by two responsible sureties or a surety company licensed to do business in the State of North Carolina and shall be on a form approved by the Department of Public Safety. Any bond shall be kept in full force and effect and shall be delivered to the law-enforcement agency which first issued a current permit to the dealer. A bond or trust account shall be for the faithful performance of the requirements and obligations of the dealer's business in conformity with this ~~Article-Part~~. Any law-enforcement agency shall have full power and authority to revoke the permit and sue for forfeiture of the bond or trust account upon a breach thereof. Any person who shall have suffered any loss or damage by any act of the permittee that constitutes a violation of this ~~Article-Part~~ shall have the right to institute an action to recover against such permittee and the surety or trust account. Upon termination of the bond or trust account the permit shall become void."

SECTION 21. G.S. 66-169(a), as recodified by Section 15 of this act, reads as rewritten:

"§ **66-410. Records to be kept.**

(a) Every dealer to whom a permit has been issued pursuant to ~~G.S. 66-165~~, G.S. 66-407 shall maintain consecutively numbered records of each precious metals transaction. Each consecutively numbered record shall be made at the time of the transaction and shall contain a clear and accurate description of the transaction. A valid description shall include each of the following applicable and available items of information: the manufacturer's name, the model,

the model number, the serial number, and any engraved numbers or initials found on the items; the date of the transaction; the name, sex, race, residence, telephone number and driver's license number of the person selling the items purchased; and the signature of both the dealer or registered employee and the seller. In the event the seller cannot furnish valid, unexpired photographic identification in the form of a drivers license, State-issued identification card, passport, or military identification card, the dealer shall require two forms of positive identification."

SECTION 22. G.S. 66-170, as recodified by Section 15 of this act, reads as rewritten:

"§ **66-411. Items not to be modified.**

No item included in a dealer purchase shall be sold, traded or otherwise disposed of, melted, cut or otherwise changed in form nor shall any item be removed from the licensed premises, or other location specified on the application for a special occasion permit, for a period of seven days from the date the transaction was reported in accordance with ~~G.S. 66-169~~G.S. 66-410."

SECTION 23. G.S. 66-172, as recodified by Section 15 of this act, reads as rewritten:

"§ **66-413. Penalties.**

Any dealer who violates the provisions of this ~~Article-Part~~ shall be deemed guilty of a Class 2 misdemeanor. In addition any dealer so convicted shall be ineligible for a dealer's permit for a period of three years from the date of conviction. Each and every violation shall constitute a separate and distinct offense."

SECTION 24. G.S. 25-9-201(b) reads as rewritten:

"(b) Applicable consumer laws and other law. – A transaction subject to this Article is subject to any applicable rule of law which establishes a different rule for consumers, to any other statute, rule, or regulation of this State that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit, and to any consumer-protection statute, rule, or regulation of this State, including Chapter 24 of the General Statutes, the Retail Installment Sales Act (Chapter 25A of the General Statutes), the North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes), and the Pawnbrokers and Cash Converters Modernization Act (~~Chapter 91A~~Part 1 of Article 45 of Chapter 66 of the General Statutes)."

SECTION 25. G.S. 105-88(a)(3) reads as rewritten:

"§ **105-88. Loan agencies.**

(a) Every person, firm, or corporation engaged in any of the following businesses must pay for the privilege of engaging in that business an annual tax of two hundred fifty dollars (\$250.00) for each location at which the business is conducted:

- (1) The business of making loans or lending money, accepting liens on, or contracts of assignments of, salaries or wages, or any part thereof, or other security or evidence of debt for repayment of such loans in installment payment or otherwise.
- (2) The business of check cashing regulated under Article 22 of Chapter 53 of the General Statutes.
- (3) The business of pawnbroker regulated under ~~Chapter 91A~~Part 1 of Article 45 of Chapter 66 of the General Statutes."

SECTION 26. G.S. 66-11 and G.S. 66-11.1 are repealed.

SECTION 27. G.S. 66-11.2 is recodified as G.S. 66-426 under Part 3 of Article 45 of Chapter 66 of the General Statutes, as enacted by Section 28 of this act.

SECTION 28. Chapter 66 of the General Statutes is amended by adding a new Part to read:

"Part 3. Regulation of Sales and Purchases of Metals.**"§ 66-415. Definitions.**

The following definitions apply in this Part:

- (1) Cash card system. – A system of payment that captures a photograph of a payment recipient and that provides payment in cash or in a form other than cash.
- (2) Fixed site. – A site occupied by a secondary metals recycler as the owner of the site or as a lessee of the site under a lease or other rental agreement providing for occupation of the site by a nonferrous metals purchaser for a total duration of not less than 364 days.
- (3) Law enforcement officer. – Any duly constituted law enforcement officer of the State or of any municipality or county.
- (4) Nonferrous metals. – Metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, and stainless steel beer kegs or containers. The term shall not include precious metals as defined and regulated in Part 2 of this Article.
- (5) Nonferrous metals purchaser. – A secondary metals recycler who purchases, gathers, or obtains nonferrous metals.
- (6) Permit. – A permit issued pursuant to G.S. 66-421(a).
- (7) Regulated metals property. – All ferrous and nonferrous metals.
- (8) Secondary metals recycler. – Any person, firm, or corporation in the State:
 - a. That is engaged in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or
 - b. That has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, by methods including, but not limited to, the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metals, but not including the exclusive use of hand tools.

"§ 66-416. Required records and receipts for regulated metals transactions.

(a) Receipt Required. – A secondary metals recycler shall issue a receipt for all purchase transactions in which the secondary metals recycler purchases regulated metals property. This receipt shall be issued to and signed by the person delivering the property, and the secondary metals recycler shall be able to provide documentation regarding the employee who completed the transaction.

(b) Records Required. – A secondary metals recycler shall maintain a record of all purchase transactions in which the secondary metals recycler purchases regulated metals property. The record of each transaction shall contain the following information:

- (1) The name and address of the secondary metals recycler.
- (2) The name, initials, or other identification of the individual entering the information.
- (3) The date of the transaction.
- (4) The weight of the regulated metals property purchased.

- (5) The description made in accordance with the custom of the trade of the type of regulated metals property purchased and the physical address where the regulated metals were obtained by the seller and the date when purchased, and a statement signed by the seller or the seller's agent certifying that the seller or the seller's agent has the lawful right to sell and dispose of the property.
- (6) The amount of consideration given for the regulated metals property.
- (7) The name and address of the vendor of the regulated metals property and the license plate number, make, model, and color of the vehicle used to deliver the regulated metals.
- (8) A photocopy or electronic scan of the unexpired drivers license or state or federally issued photo identification card of the person delivering the regulated metals property to the secondary metals recycler. If the secondary metals recycler has a copy of the valid photo identification of the person delivering the regulated metals property on file, the secondary metals recycler must examine the photo identification and verify that it has not expired, but may reference the photo identification that is on file without making a separate photocopy or electronic scan for each subsequent transaction. If the person delivering the regulated metals property does not have an unexpired drivers license or an unexpired state or federally issued photo identification card, the secondary metals recycler shall not complete the transaction.
- (9) A copy of the receipt required under subsection (a) of this section when all the information required under subsection (a) of this section is clear and legible or, in the event the copy of the receipt is not clear or not legible, the original receipt.
- (10) A video or digital photograph of the seller together with the regulated metals property being delivered by the seller. The video or photograph required by this section shall be of a quality that is sufficient to allow a person of ordinary faculties to identify the person recorded or photographed.
- (11) In transactions involving catalytic converters that are not attached to a vehicle, and central air conditioner evaporator coils or condensers, the person delivering the materials shall place next to that person's signature on the receipt required under subsection (a) of this section, a clear impression of that person's index finger that is in ink and free of any smearing. A secondary metals recycler may elect to obtain the fingerprint electronically. If the secondary metals recycler has a copy of the fingerprint of the person delivering the nonferrous metal on file, the secondary metals recycler must examine the photo identification, but may reference the fingerprint that is on file without making a separate fingerprint for each subsequent transaction.

"§ 66-417. Inspection of regulated metals property and records.

(a) Retention of Records. – A secondary metals recycler shall keep and maintain the information required under G.S. 66-416(b) for not less than two years from the date of the purchase of the regulated metals property. Records shall be securely maintained at all times and shall be destroyed in a manner that protects the identity of the owner of the property, the seller of the property, and the purchaser of the property.

(b) Inspection of Regulated Metals Property and Records. – During the usual and customary business hours of a secondary metals recycler, a law enforcement officer shall have the right to inspect all of the following:

- (1) Any and all purchased regulated metals property in the possession of the secondary metals recycler.
- (2) Any and all records required to be maintained under G.S. 66-416(b).

(c) Making Receipts Available for Inspection by Law Enforcement. – A secondary metals recycler shall make receipts for the purchase of regulated metals property available for pickup each regular workday if requested by the sheriff or chief of police of the county or the chief of police of the municipality in which the secondary metals recycler is located. The sheriff or the chief of police may request these receipts to be electronically transferred directly to the law enforcement agency. Records retained by a law enforcement agency shall be securely retained as required by law and destroyed in a manner that protects the identity of the owner of the property, the seller of the property, and the purchaser of the property.

(d) Records Are Not Public. – Records submitted to any public law enforcement agency pursuant to this section are records of criminal investigations or records of criminal intelligence information as defined in G.S. 132-1.4 and are not public records as defined by G.S. 132-1.

"§ 66-418. Hold notices for nonferrous metals; retention of nonferrous metals.

(a) Hold Notices. – When a law enforcement officer has reasonable suspicion to believe that any item of nonferrous metal in the possession of a nonferrous metals purchaser has been stolen, the law enforcement officer may issue a hold notice to the nonferrous metals purchaser. The hold notice must be in writing, be delivered to the nonferrous metals purchaser, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the notice, and inform the nonferrous metals purchaser of the information contained in this section. Upon receipt of the notice, the nonferrous metals purchaser must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metal recycler's fixed site for 15 calendar days after receipt of the notice unless released prior to the 15-day period by the law enforcement officer. A hold notice may be renewed for an additional 30 days by the law enforcement officer. A renewal must satisfy the same requirements as an initial hold notice in order to be valid.

(b) Retention of Nonferrous Metals. – Any secondary metals recycler owner convicted of a felonious violation of this Article, G.S. 14-71, 14-71.1, or 14-72 shall hold and retain nonferrous metals for seven days from the date of purchase before selling, dismantling, crushing, defacing, or in any manner altering or disposing of the regulated metals property.

"§ 66-419. Prohibited activities and transactions.

(a) A secondary metals recycler shall not do any of the following:

- (1) Operate any business that cashes checks at a fixed site at which the secondary metals recycler purchases regulated metals property.
- (2) Purchase nonferrous metals for the purpose of recycling the nonferrous metals, unless the nonferrous metals purchaser possesses a valid permit.
- (3) Purchase any central air conditioner evaporator coils or condensers, or catalytic converters that are not attached to a vehicle, except that a secondary metals recycler may purchase these items from a company, contractor, or individual that is in the business of installing, replacing, maintaining, or removing these items.
- (4) Purchase any regulated metals property that the secondary metals recycler knows or reasonably should know to be stolen.

(b) It shall be unlawful to transport or possess on highways of this State an amount of copper weighing in the aggregate more than 25 pounds, unless at least one of the following is true:

- (1) The vehicle is used in the ordinary course of business for the purpose of transporting nonferrous metals. This term includes vehicles used by gas, electric, communications, water, plumbing, electrical, and climate conditioning service providers, and their employees, agents, and contractors, in the course of providing these services.

- (2) The person transporting or possessing the copper possesses, and presents when requested, a valid bill of sale for the copper.
- (3) A law enforcement officer determines that the copper is not stolen and is in the rightful possession of the person.
- (c) A secondary metals recycler shall not purchase any of the following:
 - (1) Any regulated metal marked with the initials or other identification of a telephone, cable, electric, water, or other public utility, or any brewer.
 - (2) Any utility access cover.
 - (3) Any street light pole or fixture.
 - (4) Any road or bridge guard rail.
 - (5) Any highway or street sign.
 - (6) Any water meter cover.
 - (7) Any metal beer keg, including any made of stainless steel that is clearly marked as being the property of the beer manufacturer.
 - (8) Any traffic directional or control sign.
 - (9) Any traffic light signal.
 - (10) Any regulated metal marked with the name of a government entity.
 - (11) Any spikes, plates, or other railroad track components or signs, and any property owned by a railroad and marked and otherwise identified as such.
 - (12) Any historical marker or any grave marker or burial vase.

"§ 66-420. Permissible payment methods for nonferrous metals purchasers.

(a) Limitation on Cash Purchases. – No nonferrous metals purchaser shall enter into a cash transaction for the purchase of copper, and no nonferrous metals purchaser shall purchase any nonferrous metal property for any cash consideration greater than one hundred dollars (\$100.00) per transaction. Any payment in excess of one hundred dollars (\$100.00) per transaction shall be made by check, money order or cash card system. A nonferrous metals purchaser shall not make more than one cash purchase per day from any individual, business, corporation or partnership.

"§ 66-421. Issuance of nonferrous metals purchase permits by Sheriff; form; fees; recordkeeping.

(a) Issuance of Permits. – The sheriff of each county shall issue a nonferrous metals purchase permit to an applicant if the applicant (i) has a fixed site in the sheriff's county; (ii) declares on a form provided by the sheriff that the applicant is informed of and will comply with the provisions of this Part; (iii) does not have a permit that has been revoked pursuant to G.S. 66-324(b) at the time of the application; and (iv) has not been convicted of more than three violations of this Part. A permit shall be valid for 12 months and shall be valid only for fixed sites in the county of issuance. A permit shall be obtained for each fixed site at which nonferrous metals are purchased.

(b) Form. – The Attorney General shall prescribe a standard application form and a standard permit form to be used by sheriffs. The permit form shall contain, at a minimum, the date of issuance and the name and address of the permit holder.

(c) Fees; Record-Keeping Requirements. – The sheriff shall not charge a fee for a permit, and shall retain a copy of any permit issued.

"§ 66-422. Exemptions.

This Part does not apply to:

- (1) Purchases of regulated metals property from a manufacturing, industrial, government, or other commercial vendor that generates or sells regulated metals property in the ordinary course of its business.
- (2) Purchases of regulated metals property that involve only beverage containers, except that G.S. 66-418 shall apply in that case.

"§ 66-423. Preemption.

A county or municipality shall not enact any local law, ordinance, or regulation regulating secondary metals recyclers or regulated metals property that conflicts with this Part, and this Part preempts all existing laws, ordinances, or regulations that conflict with it.

"§ 66-424. Violations.

(a) Punishment Generally. – Unless the conduct is covered by some other provision of law providing greater punishment, any person knowingly and willfully violating any of the provisions of this Part shall be guilty of a Class 1 misdemeanor for a first offense. A second or subsequent violation of this Part is a Class I felony.

(b) Revocation of Permits. – If the owner or the employees of a fixed site are convicted of an aggregate of three or more violations of this Part within a 10 year period, the permit associated with that fixed site shall be immediately revoked by the sheriff for a period of six months. Any attempt to circumvent this subsection by procuring a permit through a family member shall result in extension of the revocation period for an additional 18 months.

"§ 66-425. Restitution.

The court may order a defendant to make restitution to the secondary metals recycler or property owner, as appropriate, for any damage or loss caused by the defendant and arising out of a violation of G.S. 14-71, G.S. 14-71.1, G.S. 14-72, G.S.14-159.4, G.S. 66-419(a) (3), or G.S. 66-419(a)(4) committed by the defendant."

SECTION 29. G.S. 66-11.2(a), as recodified by Section 27 of this act, reads as rewritten:

"§ 66-426. Forfeiture of vehicles used to transport unlawfully obtained regulated metals property.

(a) Vehicles which are used or intended for use to convey or transport, or in any manner to facilitate the conveyance or transportation of unlawfully obtained regulated metals property, as defined by this ~~Article, Part~~, are subject to forfeiture, except that:

- (1) No conveyance shall be forfeited under the provisions of this section by reason of any act or omission, committed or omitted while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any state;
- (2) No conveyance shall be forfeited unless the violation involved is a felony;
- (3) A forfeiture of a vehicle encumbered by a bona fide security interest is subject to the interest of the secured party who had no knowledge of or consented to the act or omission;
- (4) No conveyance shall be forfeited under the provisions of this section unless the owner knew or had reason to believe the vehicle was being used in the commission of any violation that may subject the conveyance to forfeiture under this section."

SECTION 30. G.S. 20-62.1(a) reads as rewritten:

"§ 20-62.1. Purchase of vehicles for purposes of scrap or parts only.

(a) Records for Scrap or Parts. – A secondary metals recycler, as defined in ~~G.S. 66-41(a)(3), G.S. 66-415(8)~~, and a salvage yard, as defined in G.S. 20-137.7(6), purchasing motor vehicles solely for the purposes of dismantling or wrecking such motor vehicles for the recovery of scrap metal or for the sale of parts only, must comply with the provision of G.S. 20-61, provided, however, that a secondary metals recycler or salvage yard may purchase a motor vehicle without a certificate of title, if the motor vehicle is 10 model years old or older and the secondary metals recycler or salvage yard comply with the following requirements:

...."

SECTION 31. Article 22 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-159.4. Cutting, mutilating, defacing, or otherwise injuring property to obtain nonferrous metals.

(a) Definition of Nonferrous Metals. – For purposes of this section, the term "nonferrous metals" means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, and stainless steel beer kegs or containers.

(b) Prohibited Act. – It is unlawful for a person to willfully and wantonly cut, mutilate, deface, or otherwise injure any personal or real property of another, including any fixtures or improvements, for the purpose of obtaining nonferrous metals in any amount.

(c) Punishment. – Violations of this section are punishable as follows:

(1) Default. – If the direct injury is to property, and the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss (including fixtures or improvements) is less than one thousand dollars (\$1,000), a violation shall be punishable as a Class 1 misdemeanor. If the applicable amount is one thousand dollars (\$1,000) or more, but less than ten thousand dollars (\$10,000), a violation shall be punishable as a Class H felony. If the applicable amount is ten thousand dollars (\$10,000) or more, a violation shall be deemed an aggravated offense and shall be punishable as a Class F felony.

(2) When person suffers serious injury. – Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section that results in a serious injury to another person is punishable as a Class A1 misdemeanor.

(3) When person suffers a serious bodily injury. – Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section that results in serious bodily injury to another person is punishable as a Class F felony. For purposes of this subdivision, "serious bodily injury" is as defined in G.S. 14-32.4.

(4) When person is killed. – Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section that results in the death of another person is punishable as a Class D felony.

(5) When critical infrastructure affected. – Unless the conduct is covered under some other provision of law providing greater punishment, a violation of this section that results in the disruption of communication or electrical service to critical infrastructure or to more than 10 customers of the communication or electrical service is guilty of a Class 1 misdemeanor.

(d) Liability. – This section does not create or impose a duty of care upon the owner of personal or real property that would not otherwise exist under common law. A public or private owner of personal or real property shall not be civilly liable:

(1) To a person who is injured while committing or attempting to commit a violation of this section.

(2) To a person who is injured while a third party is committing or attempting to commit a violation of this section.

(3) For a person's injuries caused by a dangerous condition created as a result of a violation of this section, when the owner does not know and could not have reasonably known of the dangerous condition."

SECTION 32. Pawnbroker licenses and permits to engage as a dealer in the business of purchasing precious metals that are valid on the effective date of this act shall continue in force until the natural expiration thereof, unless otherwise revoked or suspended in accordance with applicable law.

SECTION 33. This act becomes effective October 1, 2012, 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 19th day of June, 2012.

Became law upon approval of the Governor at 12:10 p.m. on the 20th day of June, 2012.

Session Law 2012-47

S.B. 859

AN ACT TO PROVIDE THAT REGULAR MUNICIPAL ELECTIONS IN THE TOWN OF PILOT MOUNTAIN AND THE TOWN OF DOBSON ARE HELD IN EVEN-NUMBERED YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.3 of the Charter of the Town of Pilot Mountain, being Chapter 28 of the Session Laws of 1971, as amended by Town Ordinance 217, adopted April 22, 2002, reads as rewritten:

"Sec. 3.3. Terms; Qualifications; Vacancies.

(a) The Mayor shall and members of the Board of Commissioners shall serve for terms of four (4) years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and ~~qualify-qualify~~, provided further that (i) the Mayor elected in 2011 shall serve a term of three years, but the Mayor's successors shall serve terms of four years; and (ii) the members of the board of commissioners elected in 2009 and 2011 shall serve terms of three years, but the members' successors shall serve terms of four years.

...."

SECTION 2. Section 4.1 of the Charter of the Town of Pilot Mountain, being Chapter 28 of the Session Laws of 1971, is rewritten to read:

"Sec. 4.1. Regular Elections. Elections shall be held biennially on the Tuesday after the first Monday in November, beginning in 2012. In the 2014 election and quadrennially thereafter, the candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected for a term of four years. In the 2012 election and quadrennially thereafter, the two candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected for terms of four years. In the 2014 election and quadrennially thereafter, the two candidates for Commissioner who receive the largest numbers of votes cast for Commissioner shall be declared elected for terms of four years. Regular municipal elections shall be held biennially in even-numbered years, but shall otherwise be conducted in accordance with the general law governing municipal elections, except that absentee ballots shall be available on the same schedule as for county and State officers at that election."

SECTION 3. Section 3.3 of the Charter of the Town of Dobson, being Chapter 232 of the Session Laws of 1975, as amended by Town Ordinance dated February 18, 2010, reads as rewritten:

"Sec. 3.3. Terms; qualifications; vacancies.

(a) The members of the Board of Commissioners shall serve for terms of four years, and the Mayor shall serve for a term of four years, beginning the day and hour of the organizational meeting following their election, as established by ordinance in accordance with this Charter; provided, they shall serve until their successors are elected and ~~qualify-qualify~~, provided further that (i) the Mayor elected in 2009 shall serve a term of five years, but the Mayor's successors shall serve terms of four years; and (ii) the members of the board of commissioners elected in 2009 and 2011 shall serve terms of five years, but the members' successors shall serve terms of four years.

(b) No person shall be eligible to be a candidate or to be elected as Mayor or as a member of the Board of Commissioners or to serve in such capacity, unless he is a resident and a qualified voter of the Town.

(c) In the event a vacancy occurs in the office of Mayor or Commissioner, the Board shall by majority vote appoint some qualified person to fill the same for the remainder of the unexpired term."

SECTION 4. Section 4.1 of the Charter of the Town of Dobson, being Chapter 232 of the Session Laws of 1975, reads as rewritten:

"Sec. 4.1. Regular municipal elections. Regular municipal elections shall be held biennially in ~~odd-numbered~~even-numbered years on ~~the day set by general law for municipal elections the Tuesday after the first Monday in November, beginning in 2014.~~ In the ~~1975-2014~~ regular municipal election and ~~biennially~~quadrennially thereafter there shall be elected a Mayor for a term of ~~two~~four years. In the ~~1975-2016~~ regular municipal election and quadrennially thereafter, three Commissioners shall be elected to serve terms of four years each. In the ~~1977~~2014 regular municipal election and quadrennially thereafter, two Commissioners shall be elected to serve terms of four years each."

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-48

H.B. 1018

AN ACT TO AUTHORIZE APPROVAL OF THE YADKIN VALLEY REGIONAL CAREER ACADEMY AS A COOPERATIVE INNOVATIVE HIGH SCHOOL FOR THE 2012-2013 SCHOOL YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the requirement of S.L. 2010-31, Section 7.21(e), the local boards of education of Davidson County Schools, Thomasville City Schools, and Lexington City Schools and the local board of trustees of Davidson County Community College may apply jointly to establish a cooperative innovative high school program known as the Yadkin Valley Regional Career Academy under Part 9 of Article 16 of Chapter 115C of the General Statutes. The State Board of Education and State Board of Community Colleges shall consider such application for the 2012-2013 school year if the application is received by June 15, 2012, and may approve an application for the Yadkin Valley Regional Career Academy without an explicit appropriation from the General Assembly.

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-49

H.B. 1107

AN ACT AMENDING THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL PROFITS IN GRANVILLE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 364 of the 1963 Session Laws of North Carolina, as rewritten by Section 1 of Chapter 91 of the 1965 Session Laws of North Carolina, reads as rewritten:

"Section 1. Granville County is hereby authorized to divide Alcoholic Beverage Control profits paid into its general fund under Section 18-57 of the General Statutes of North Carolina with certain municipalities in said county in the following proportions: Granville County, ~~fifty-eight per cent (58%),~~sixty-four and eighty-six hundredths percent (64.86%), City of Oxford, ~~twenty-eight per cent (28%),~~fourteen and twelve hundredths percent (14.12%), Town of Butner, twelve and sixty-seven hundredths percent (12.67%), Town of Creedmoor, ~~ten per cent (10%),~~six and eighty-eight hundredths percent (6.88%), Town of Stem, ~~two percent (2%),~~seventy-seven hundredths (.77%), and the Town of Stovall, ~~two per cent (2%),~~seven-tenths percent (.70%)."

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-50

H.B. 1108

AN ACT TO MAKE MODIFICATIONS TO THE BUTNER PUBLIC SAFETY AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-408(a) reads as rewritten:

"(a) Authority Established. – There is hereby created an authority known as the Butner Public Safety Authority, which is a body politic and corporate, to provide fire and police protection for the territory of the Camp Butner ~~Reservation.~~Reservation and the corporate limits of the Town of Butner."

SECTION 2. G.S. 122C-408(b) reads as rewritten:

"(b) Authority of Special Police Officers. – After taking the oath of office required for law-enforcement officers, the special police officers authorized by this section shall have the authority of deputy sheriffs of Durham and Granville Counties in those counties respectively. Within the territorial jurisdiction stated in subsection ~~(a7)-(a5)~~ of this section, the special police officers have the primary responsibility to enforce the laws of North Carolina, the ordinances of the Town of Butner, and any rule applicable to the Camp Butner Reservation adopted under authority of this Part or under G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted any other agency of the State and also have the powers set forth for firemen in Articles 80, 82, and 83 of Chapter 58 of the General Statutes. Any civil or criminal process to be served on any individual confined at any State facility within the territorial jurisdiction described in subsection ~~(a7)-(a5)~~ of this section shall be forwarded by the sheriff of the county in which the process originated to the Director of the authority. Special police officers authorized by this section shall be assigned to transport any individual transferred to or from any State facility within the territorial jurisdiction described in subsection ~~(a7)-(a5)~~ of this section to or from the psychiatric service of the University of North Carolina Hospitals at Chapel Hill."

SECTION 3. G.S. 122C-408(d) reads as rewritten:

"(d) ~~Hiring of Director.~~Provision of Services. – The authority ~~shall~~may contract with the Secretary of Public Safety to provide fire and police protection to the Camp Butner Reservation and the corporate limits of the Town of Butner ~~so long as the Department provides the level of services required by the authority.~~on such terms and conditions as the parties may agree. In such event, the employees of the Department of Public Safety shall remain employees of the State. While the contract between the Secretary of Public Safety and the Town of Butner is in effect, the Secretary of Public Safety shall consult with the voting members of the authority concerning the Department's hiring of the Director of the authority. The consultation shall include, but not be limited to, the voting members of the authority reviewing and providing their comments to the Secretary of Public Safety on the credentials of the applicants for said position. In performing its functions under this subsection, the voting members of the

authority shall have the same access to the applicants' personnel records pursuant to Article 7 of Chapter 126 of the General Statutes as the Secretary of Public Safety and are subject to the same restraints concerning the personnel information as set out in that Article. After consultation with the authority, the Secretary of Public Safety shall select and hire the Director of the authority."

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-51

H.B. 1133

AN ACT TO REVISE PENDER COUNTY COMMISSIONER DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 245, Session Laws of 1947, as amended by Sections 1 and 2 of Chapter 212, Session Laws of 1949, and as rewritten by Section 1 of Chapter 1183 of the 1981 Session Laws, and as rewritten by Section 1 of Chapter 68 of the 1995 Session Laws, reads as rewritten:

"Section 1.(a) For the purpose of electing its county commissioners, the County of Pender is divided into five districts, as follows:

~~District 1: Pender County: Lower Topsail *, Upper Topsail *: Tract 9802: Block Group 4: Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 525, Block 526, Block 527; Scott's Hill *.~~

~~District 2: Pender County: North Burgaw *: Tract 9803: Block Group 1: Block 144A, Block 146; Block Group 2: Block 254A, Block 254B; Tract 9804: Block Group 1: Block 106; South Burgaw *: Tract 9804: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 116, Block 117; Block Group 2: Block 201, Block 202, Block 213, Block 214, Block 215, Block 221, Block 222, Block 224; Middle Holly *, Upper Holly *, Lower Union *: Tract 9803: Block Group 2: Block 255; Rocky Point *: Tract 9802: Block Group 2: Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231A, Block 232, Block 233, Block 234A, Block 235, Block 236A, Block 237, Block 253, Block 254, Block 255, Block 256, Block 257, Block 258, Block 259, Block 260, Block 261, Block 262, Block 285, Block 286; Upper Topsail *: Tract 9802: Block Group 1: Block 181B; Block Group 2: Block 201C, Block 219B, Block 231B, Block 234B, Block 236B, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 245, Block 246, Block 247, Block 287, Block 288, Block 289, Block 290, Block 291, Block 292, Block 293, Block 294, Block 295, Block 296, Block 297; Block Group 3: Block 319, Block 324, Block 325, Block 326, Block 327, Block 328; Block Group 4: Block 401, Block 402, Block 403; Surf City *.~~

~~District 3: Pender County: Grady *: Tract 9805: Block Group 1: Block 182B, Block 183B, Block 184B, Block 185, Block 186, Block 187, Block 188; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 443, Block 444, Block 445, Block 446, Block 447, Block 448, Block 449, Block~~

~~450, Block 451, Block 452, Block 453, Block 454, Block 458, Block 459, Block 460, Block 461; Long Creek *, Rocky Point *: Tract 9804: Block Group 2: Block 219C, Block 220B, Block 223; Block Group 5: Block 549D, Block 551C, Block 552C, Block 556C; Tract 9806: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135; Block Group 2: Block 201, Block 202, Block 203B, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213B, Block 214B, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233; Block Group 3: Block 337B, Block 337C, Block 338B.~~

~~District 4: Pender County: North Burgaw *: Tract 9803: Block Group 2: Block 246A, Block 247B, Block 256A, Block 257A, Block 258A; Tract 9804: Block Group 1: Block 107, Block 108, Block 109A, Block 109B, Block 110, Block 115; Block Group 3: Block 301A, Block 301B, Block 301C, Block 302A, Block 302B, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 352A, Block 352B; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408A, Block 409A, Block 418A, Block 420A, Block 424A, Block 425A, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442A, Block 442B, Block 443, Block 444, Block 445, Block 446A, Block 446B, Block 447, Block 448, Block 449, Block 450, Block 451, Block 452, Block 453A, Block 453B, Block 454, Block 455, Block 456, Block 457, Block 458, Block 459, Block 460, Block 461, Block 462, Block 463, Block 464, Block 465, Block 466, Block 467A, Block 467B, Block 468A, Block 468B, Block 469, Block 470, Block 481, Block 482, Block 483; South Burgaw *: Tract 9804: Block Group 1: Block 111, Block 112, Block 113, Block 114; Block Group 2: Block 203A, Block 203B, Block 203C, Block 204A, Block 204B, Block 205A, Block 205B, Block 205C, Block 206A, Block 206B, Block 206C, Block 207, Block 208A, Block 208B, Block 209, Block 210A, Block 210B, Block 211A, Block 211B, Block 212, Block 216, Block 217A, Block 217B, Block 218A, Block 218B, Block 219A, Block 219B, Block 220A; Block Group 3: Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 343, Block 344, Block 345, Block 346A, Block 346B, Block 347, Block 348A, Block 348B, Block 349, Block 350, Block 351, Block 353; Block Group 4: Block 434, Block 435, Block 436, Block 471, Block 472, Block 473, Block 474, Block 475, Block 476, Block 477, Block 478, Block 479, Block 480; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 526, Block 527, Block 528, Block 529, Block 530, Block 531, Block 532, Block 533, Block 534, Block 535, Block 536, Block 537, Block 538, Block 539, Block 540, Block 541A, Block 541B, Block 542A, Block 542B, Block 542C, Block 543, Block 544A, Block 544B, Block 544C, Block 545A, Block 545B, Block 546A, Block 547A, Block 548A, Block 549A, Block 549B, Block 550, Block 551A, Block 551B, Block 552A, Block 552B, Block 553, Block 554A, Block 554B, Block 554C, Block 554D, Block 555, Block 556A, Block 556B; Tract 9806: Block Group 3: Block 301A; Lower Union *: Tract 9802: Block Group 1: Block 106B, Block 107B, Block 108, Block 109, Block 110, Block 111, Block 112B, Block 113B, Block 129B, Block 130B, Block 131B; Tract 9803: Block Group 1: Block 125A, Block 125B, Block 128, Block 129, Block 130, Block 131A, Block 131B, Block 132, Block 133A, Block 133B, Block 135, Block 136, Block 137, Block 138, Block 139A, Block 139B, Block 140, Block 141, Block 142,~~

~~Block 143, Block 144B, Block 145, Block 147, Block 148, Block 149; Block Group 2: Block 230A, Block 230B, Block 231A, Block 231B, Block 232A, Block 232B, Block 233, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 246B, Block 247A, Block 247C, Block 248, Block 249, Block 250A, Block 250B, Block 251A, Block 251B, Block 252, Block 253, Block 254C, Block 256B, Block 257B, Block 258B, Block 259; Tract 9804: Block Group 4: Block 408B, Block 409B, Block 410, Block 411, Block 416B, Block 417, Block 418B, Block 419B, Block 420C, Block 425B, Block 484, Block 485.~~

~~District 5: Pender County: Canetuck *, Caswell *, Columbia *, Grady *: Tract 9805: Block Group 4: Block 455, Block 456, Block 457, Block 462, Block 463, Block 464, Block 465, Block 466, Block 467, Block 468, Block 469, Block 470, Block 471, Block 472, Block 473, Block 474, Block 475, Block 476, Block 477, Block 478, Block 479, Block 480, Block 481, Block 482, Block 483, Block 484, Block 485, Block 486, Block 487, Block 488, Block 489, Block 490, Block 491, Block 492, Block 493, Block 494, Block 495, Block 496; Tract 9806: Block Group 3: Block 339; Penderlea *, Upper Union *.~~

District 1: Pender County: VTD: SC13, VTD: SP15, VTD: UT14: Block(s) 1419201011000, 1419201011001, 1419201011002, 1419201011026, 1419201021004, 1419201021024, 1419201021032, 1419201021033, 1419201033037, 1419201033047, 1419201033049, 1419201033050, 1419201033051, 1419201033052, 1419201033057, 1419201033058, 1419201033059, 1419201033060, 1419201033061, 1419202011011, 1419202011022, 1419202011023, 1419202011024, 1419202011025, 1419202011027, 1419202011028, 1419202011029, 1419202011030, 1419202011031, 1419202011032, 1419202011034, 1419202012000, 1419202012001, 1419202012002, 1419202012004, 1419202012008, 1419202012009, 1419202012010, 1419202012011, 1419202012012, 1419202012013, 1419202012014, 1419202012015, 1419202012016, 1419202012017, 1419202012018, 1419202012019, 1419202041066, 1419202041079, 1419202041080, 1419202041081.

District 2: Pender County: VTD: LT18, VTD: MT19, VTD: RP20: Block(s) 1419202031026, 1419202031027, 1419202031028, 1419202031029, 1419202031030, 1419202031038, 1419202031091; VTD: SH12, VTD: UT14: Block(s) 1419201011041, 1419201011042, 1419202012003, 1419202012005, 1419202012006, 1419202012007, 1419202012020, 1419202012021, 1419202012022, 1419202012023, 1419202012024, 1419202012025, 1419202012026, 1419202023000, 1419202023001, 1419202023002, 1419202023003, 1419202023009, 1419202031037, 1419202031055, 1419202031056, 1419202031057, 1419202031058, 1419202031059, 1419202031060, 1419202031061, 1419202031067.

District 3: Pender County: VTD: CF11, VTD: CL05: Block(s) 1419205011075; VTD: GR06: 1419205013051, 1419205013056, 1419205013057, 1419205013063, 1419205013064, 1419205013065, 1419205013066, 1419205013067, 1419205013071, 1419205013072, 1419205013073, 1419205021018, 1419205021019, 1419205021023, 1419205021024, 1419205021025, 1419205021026, 1419205021027, 1419205021028, 1419205021029, 1419205021030, 1419205021031, 1419205021032, 1419205021134, 1419205021135, 1419205021136, 1419205021138, 1419205021139, 1419205021140, 1419205021141, 1419205021142, 1419205021143, 1419205021144, 1419205021145, 1419205021146, 1419205021147, 1419205021148, 1419205021149, 1419205021150, 1419205021151, 1419205021152, 1419205021153, 1419205021154, 1419205021155, 1419206023019, 1419206023025, 1419206023026, 1419206023028; VTD: LC09: 1419206011023, 1419206011024, 1419206011025, 1419206011026, 1419206011027, 1419206011028, 1419206011029, 1419206011030, 1419206011031, 1419206011032, 1419206011033, 1419206011034, 1419206011035, 1419206011036, 1419206011037, 1419206011038, 1419206011039, 1419206011040, 1419206011042, 1419206011043, 1419206011044, 1419206011045, 1419206011046, 1419206011047, 1419206011048, 1419206011049, 1419206011050, 1419206011051, 1419206011052, 1419206011053, 1419206011054, 1419206011055, 1419206011056, 1419206011057, 1419206011058, 1419206011059, 1419206011060, 1419206011066, 1419206011067, 1419206011068, 1419206011069, 1419206023001, 1419206023002, 1419206023003, 1419206023004, 1419206023005.

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District 4: Pender County: VTD: CL05: Block(s) 1419203003018, 1419203003019,
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(b) ~~The names and boundaries of precincts (voting tabulation districts), tracts, block groups, and blocks specified in this section are as they were legally defined and recognized in the 1990 U.S. Census. Boundaries are as shown on the IVTD Version of the United States Bureau of the Census 1990 TIGER Files.~~ The names and boundaries of voting tabulation districts, tracts, block groups, and blocks specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles.

(c) If any voting tabulation district boundary is changed, that change shall not change the boundary of a district, which shall remain the same as it is depicted by the 2010 Census Redistricting TIGER/Line Shapefiles."

SECTION 2. This act becomes effective beginning with the 2014 primary and general election.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-52

H.B. 1205

AN ACT TO MAKE IT UNLAWFUL TO GO ON CERTAIN POSTED PROPERTY WITHOUT WRITTEN PERMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-159.6(a) reads as rewritten:

"(a) Any person who willfully goes on the land, waters, ponds, or a legally established waterfowl blind of another that has been posted in accordance with the provisions of ~~G.S. 14-159.7, to hunt, fish or trap~~ G.S. 14-159.7 without written permission of the landowner, lessee, or his agent shall be guilty of a Class 2 misdemeanor. Written permission shall be carried on one's person, signed by the landowner, lessee, or agent, and dated within the last 12 months. The written permission shall be displayed upon request of any law enforcement officer of the Wildlife Resources Commission, sheriff or deputy sheriff, or other law enforcement officer with general subject matter jurisdiction. A person shall have written permission for purposes of this section if a landowner, lessee, or agent has granted permission to a club to hunt, fish, or trap on the land and the person is carrying both a current membership card demonstrating the person's membership in the club and a copy of written permission granted to the club that complies with the requirements of this section."

SECTION 2. This act applies only to Granville County.

SECTION 3. This act becomes effective October 1, 2012, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-53**H.B. 224**

AN ACT TO VALIDATE A SPECIAL ASSESSMENT LEVIED BY FOXFIRE VILLAGE.

The General Assembly of North Carolina enacts:

SECTION 1. Any and all acts and proceedings heretofore done, and any and all procedures heretofore followed by Foxfire Village in assessing the cost of the Woodland Circle Extension project (involving the construction of a two-lane, paved road and the installation of electric power and water utility lines to serve properties that previously had no road access or utility service) pursuant to Article 10 of Chapter 160A of the General Statutes, are hereby in all respects validated, legalized, and confirmed. Any and all special assessments relating to this project levied by Foxfire Village at a rate of \$0.20782 per square foot of the area of the lots or tracts abutting the project are hereby in all respects validated, legalized, and confirmed.

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-54**H.B. 943**

AN ACT TO REQUIRE THE APPROVAL OF THE BOARD OF COMMISSIONERS OF DAVIDSON COUNTY BEFORE A CITY NOT PRIMARILY LOCATED WITHIN DAVIDSON COUNTY MAY ANNEX ANY TERRITORY WITHIN DAVIDSON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. No city not primarily located within the territory of Davidson County may adopt an annexation ordinance under any of the provisions of Article 4A of Chapter 160A of the General Statutes that applies to any territory located within Davidson County unless the Board of Commissioners of Davidson County has, prior to the adoption of the annexation ordinance, approved a resolution consenting to that annexation.

SECTION 2. This act is effective when it becomes law and applies with respect to any annexation ordinance adopted after that date.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-55**H.B. 1207**

AN ACT TO ALLOW GRANVILLE COUNTY, PERSON COUNTY, THE CITY OF CREEDMOOR, THE TOWN OF BUTNER, AND THE TOWN OF STEM TO COLLECT DELINQUENT STORMWATER UTILITY FEES IN THE SAME MANNER AS DELINQUENT PERSONAL AND REAL PROPERTY TAXES.

Whereas, water quality standards mandated by State and federal law are requiring that local governments develop more detailed, advanced, and costly stormwater programs; and

Whereas, effective stormwater management should be provided to protect, to the extent practicable, the citizens from the loss of life and property damage from flooding; and

Whereas, aging stormwater conveyance systems and increasing demand upon those systems from development require that local governments engage in long-term planning; and

Whereas, the construction, operation, and maintenance of stormwater conveyance systems requires long-term planning and stable and adequate funding; and

Whereas, it is often most efficient to bill and collect rents, rates, fees, charges, and penalties for stormwater management programs and structural and natural stormwater and drainage systems in the same manner as property taxes; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 153A-277(a1) is amended by adding a new subdivision to read:

"(4) A county may adopt an ordinance providing that any fee imposed under this subsection may be billed with property taxes, may be payable in the same manner as property taxes, and, in the case of nonpayment, may be collected in any manner by which delinquent personal or real property taxes can be collected. If an ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the fees are a lien on the real property described on the bill that includes the fee."

SECTION 1.(b) G.S. 153A-277(c) reads as rewritten:

"(c) Except as provided in subsections (a1) and (d) of this section and G.S. 153A-293, rents Rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the person contracting for them, and are shall in no case be a lien upon the property or premises served, served and, except as provided in subsection (d) of this section, are legal obligations of the person contracting for them, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems."

SECTION 1.(c) This section applies only to the Counties of Granville and Person.

SECTION 2. Section 4 of S.L. 2005-441, as amended by S.L. 2011-109, reads as rewritten:

"**SECTION 4.** This act is effective when it becomes law and applies to stream-clearing activities commenced on or after that date. Section 3 of this act applies only to the Cities of Creedmoor, Durham and Winston-Salem, the Towns of Butner, Garner, Kernersville, Knightdale, Morrisville, Stem, Wendell, and Zebulon, and the Village of Clemmons."

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-56

S.B. 816

AN ACT TO REWRITE THE BANKING LAWS OF NORTH CAROLINA, AS RECOMMENDED BY THE JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 1 through 10, 12, and 13 of Chapter 53 of the General Statutes are repealed.

SECTION 2. The title of Chapter 53 of the General Statutes reads as rewritten:

"Chapter 53.

"Banks-Regulation of Financial Services."

SECTION 3. Chapter 53 of the General Statutes is amended by adding the following new Article to read:

"Article 1A.

"General Provisions.

"§ 53-1.1. Banking definitions applicable to this Chapter.

Except as otherwise provided by law, the definitions contained in G.S. 53C-1-4 shall apply to terms used in this Chapter."

SECTION 4. The General Statutes are amended by adding a new Chapter to read:

"Chapter 53C.
"Regulation of Banks.
"Article 1.
"General Provisions.

"§ 53C-1-1. Title.

This Chapter shall be known and may be cited as Regulation of Banks and Other Financial Services.

"§ 53C-1-2. Scope and applicability of Chapter.

- (a) Unless the context specifies otherwise, this Chapter shall apply to the following:
- (1) All existing banks organized or created under the laws of this State.
 - (2) All banks created under the provisions of Article 3 of this Chapter.
 - (3) All persons who subject themselves to the provisions of this Chapter.
 - (4) All persons who become subject to the penalties provided for in this Chapter as a consequence of violating any of the provisions of this Chapter.
- (b) Transactions validly entered into before the effective date of this act and the rights, duties, and interests flowing from them remain valid and may be terminated, completed, or enforced as required or permitted by any statute amended or repealed by the law by which this act was enacted as though the amendment or repeal had not occurred.
- (c) Except as restricted by federal law, a federally chartered depository institution that has a branch in this State shall have all the rights, powers, and privileges and shall be entitled to the same exemptions and immunities as banks organized or created under the laws of this State.
- (d) Except as restricted by federal law or the laws of another state in which it was organized or created, an out-of-state bank that has a branch in this State shall have, with respect to activities conducted through such branch, all the rights, powers, and privileges and shall be entitled to the same exemptions and immunities as banks organized and created under the laws of this State.
- (e) Any reference in this Chapter to a state or federal law, regulation, or agency shall be deemed to refer to any replacement law or regulation or any successor agency, whether or not this Chapter explicitly provides for that reference.

"§ 53C-1-3. Existing banks; prohibitions, injunctions.

- (a) No depository institution organized or created under the laws of this State may operate as a bank except in accordance with this Chapter. Banks established prior to the effective date of this act may continue operation under their existing organizational documents but shall be subject to all other requirements of this Chapter.
- (b) No person shall operate in this State as a "bank," "savings bank," "savings and loan association," "trust company," or otherwise as a depository institution or trust institution unless established as a depository institution or trust institution under the laws of this State or another state or established under federal law. Unless so authorized, no person doing business in this State shall do either of the following:
- (1) Use in its name the term "bank," "savings and loan," "savings bank," "banking company," "trust company," or words of similar meaning that lead the public reasonably to believe that it conducts the business of a depository institution or trust institution.
 - (2) Use any sign, letterhead, circular, or Web site content or advertise or communicate in any manner that would lead the public reasonably to believe that it conducts the business of a depository institution or trust institution.
- (c) Upon application by the Commissioner, a court of competent jurisdiction may issue an injunction to restrain any person from violating or from continuing to violate this section.

"§ 53C-1-4. Definitions and application of terms.

Unless the context requires otherwise, the following definitions apply in this Chapter:

- (1) Acquire. – To obtain the right or power to vote or to direct the voting of voting securities of a bank or holding company as follows:

- a. Through a purchase of or share exchange for shares.
 - b. By reason of an issuance of shares or the exercise of a right under a warrant, option, or convertible security or instrument to acquire shares.
 - c. Pursuant to an agreement or trust or through any similar transaction, event, or contractual right.
- (2) Acting in concert. – Knowing participation in a joint activity or interdependent conscious parallel action toward the common goal of obtaining control of a bank or holding company, whether or not pursuant to an express agreement, including participation in a combination or pooling of voting securities of a bank holding company for such common purpose pursuant to any contract, understanding, relationship, agreement, or other arrangement, whether written or otherwise.
- (3) Affiliate. – A person that, directly or indirectly, controls, is controlled by, or is under common control with another person. Each member of a group of persons acting in concert shall be deemed an affiliate of the group.
- (4) Bank. – Any corporation, other than a credit union, savings institution, or trust institution, that is organized under the laws of this State and is engaged in the business of receiving deposits (other than trust funds), paying monies, and making loans.
- (5) Bank operating subsidiary. – A subsidiary that is under the control of a bank and engages only in activities in which a bank may engage pursuant to G.S. 53C-5-1.
- (6) Bank premises. – Any improved or unimproved real estate, whether or not open to the public, that is utilized or intended to be utilized by a bank, including additional space to rent as a source of income.
- (7) Bank supervisory agency. – Any of the following agencies:
- a. The CFPB, FDIC, Federal Reserve Board, OCC, and any successor to these agencies.
 - b. Any agency of another state with primary responsibility for chartering and supervising depository institutions organized under the laws of that state.
 - c. Any agency of a sovereign nation with primary responsibility for chartering and supervising depository institutions organized under the laws of that nation.
- (8) Bankers' bank. – As defined in Regulation D of the Federal Reserve Board, 12 C.F.R. § 204.121.
- (9) Banking laws. – All laws which the Commissioner or the OCOB is authorized to enforce under any applicable statute.
- (10) Board of directors. – A governing board of a company that is responsible for policy, oversight, and compliance.
- (11) Branch. – An office of any bank or a depository institution organized under the banking laws of the United States, another state, or another sovereign nation, other than that depository institution's principal office, in which deposits are received. A branch may also engage in any of the functions or services authorized to be engaged in by the bank of which it is a branch. The term "branch" does not include a non-branch bank business office, automated teller machine, remote deposit facility, remote service unit, customer-bank communications terminal, point-of-sale terminal, automated banking facility or other direct or remote information processing device or machine, whether manned or unmanned, by means of which information relating to any financial service or transaction rendered to the public is

- stored and transmitted, instantaneously or otherwise, to or from a bank or other nonbank terminal.
- (12) Capital. – An amount equal to the bank's "total capital" as that term is used by the FDIC in 12 C.F.R. Part 325; provided, that if the term "total capital" is replaced by a term including substantially the same elements as "total capital," the term "capital" as used in this Chapter shall mean an amount equal to the amount calculated by application of the definition of such replacement term.
- (13) Capital impairment. – The reduction of a bank's capital at any time below its required capital.
- (14) Central reserve bank. – A depository institution of which at least fifty percent (50%) of its shares are owned by other depository institutions.
- (15) CFPB. – The Consumer Financial Protection Bureau or its successor.
- (16) Charter. – A document issued by the Commissioner in accordance with Article 3 of this Chapter permitting a bank to conduct banking business.
- (17) Combination. – A merger, share exchange, or transfer or acquisition of all or substantially all assets and liabilities of a person undertaken in compliance with such federal laws and laws of this State or other states as may be applicable.
- (18) Commission. – The State Banking Commission provided for in G.S. 53C-2-1.
- (19) Commissioner. – The Commissioner of Banks provided for in G.S. 53C-2-2.
- (20) Company. – A corporation, limited liability company, partnership, joint venture, business trust, trust, syndicate, association, unincorporated organization, or other form of business entity.
- (21) Control. – The possession, directly or indirectly, of the power or right to direct or to cause the direction of the management or policies of a person by reason of an agreement, understanding, proxy, or power of attorney or through the ownership of or voting power over ten percent (10%) or more of the voting securities of the person.
- (22) Control transaction. – The acquisition of control over a bank or a holding company other than pursuant to a combination.
- (23) Credit union. – A credit union as defined in G.S. 54-109.1.
- (24) De novo branch. – A branch of a bank or of an out-of-state bank within this State that is established as a branch, and not (i) by virtue of an acquisition of the existing branch of another bank or out-of-state bank, (ii) by a combination involving the bank or out-of-state bank, or (iii) by the conversion of a non-branch bank business office to a branch.
- (25) Deposit. – A "deposit" as defined in Section 3(1) of the Federal Deposit Insurance Act, 12 U.S.C. § 1813(1).
- (26) Deposit insurance. – Insurance of a bank's deposit accounts where the beneficiaries are the holders of the insured accounts.
- (27) Depository institution. – A bank, out-of-state bank, savings institution, or federally chartered institution, the deposits of which are insured by the FDIC.
- (28) Deputy commissioner. – An individual appointed by the Commissioner to such office as provided by G.S. 53C-2-3.
- (29) Distribution. – With respect to a bank, "distribution" has the same meaning as set forth in Chapter 55.
- (30) DPC subsidiary. – A debt previously contracted subsidiary of a bank that acquires in good faith an equity ownership interest through foreclosure or other realization on collateral, by way of a compromise of a disputed or contested claim, or to avoid a loss in connection with a debt previously

- contracted or to which the bank transfers an equity ownership interest so acquired by the bank.
- (31) Equity ownership interest. – Any beneficial equity or similar interest, whether direct or indirect, including shares, limited or general partnership interests, and membership interests in a limited liability company.
- (32) Examination. – A supervisory inspection of a bank, a proposed bank, a holding company, or a branch of an out-of-state bank operating in this State that may include inspection of all relevant information, including information of or about the subsidiaries and affiliates of the bank, proposed bank holding company, or branch. "Examination" also includes an investigation of any person with respect to any violation or suspected violation of any provision of this Chapter by such person, or a review of facts and circumstances relevant to the Commissioner's consideration of the issuance of an order pursuant to this Chapter.
- (33) Farm credit system institution. – A lending institution regulated by the Farm Credit Administration.
- (34) FDIC. – The Federal Deposit Insurance Corporation or its successor.
- (35) Federal Reserve Board. – The Board of Governors of the Federal Reserve System or its successor.
- (36) Federal savings association. – A federal savings association or federal savings bank chartered under Section 5 of the Home Owners' Loan Act, 12 U.S.C. § 1464.
- (37) Federally chartered institution. – A national bank or federal savings association.
- (38) Financial subsidiary. – A "financial subsidiary" as defined in 12 U.S.C. § 24a(g).
- (39) Holding company. – A company that controls a depository institution or that controls a company that directly or indirectly controls a depository institution.
- (40) Immediate family. – An individual's spouse, father, mother, children, brothers, sisters, and grandchildren; the father, mother, brothers and sisters of the individual's spouse; and the spouse of the individual's child, brother, or sister.
- (41) Inadequate capital. – An amount of capital equal to at least seventy-five percent (75%) but less than one hundred percent (100%) of required capital.
- (42) Individual. – A human being.
- (43) Insufficient capital. – An amount of capital less than seventy-five percent (75%) of required capital.
- (44) Lower-tier subsidiary. – Any bank operating subsidiary in which a bank subsidiary has an equity ownership interest.
- (45) National bank. – A banking association organized under 12 U.S.C. § 21.
- (46) Non-branch bank business office. – Any staffed physical location open to the public in this State in which an office of a bank, out-of-state bank, depository institution established under the laws of another state, or federally chartered institution that is not a branch, an office of a separately organized subsidiary of such depository institution, or an office of the holding company of such depository institution, at which one or more banking or banking-related products or services are offered, other than the taking of deposits. The provision of remote deposit capture facilities or services by a non-branch bank business office shall not be deemed to be a taking of deposits. Non-branch bank business offices include loan production offices, mortgage loan offices, and insurance agency offices, or a combination thereof.

- (47) North Carolina financial institution. – A bank, savings institution, or trust company organized under the laws of this State. For purposes of the Securities Act of 1933 and the Securities Exchange Act of 1934, any North Carolina financial institution is a banking institution.
- (48) OCC. – The Office of the Comptroller of the Currency or its successor.
- (49) OCOB. – The Office of the Commissioner of Banks as provided in G.S. 53C-2-3.
- (50) Organizational documents. – The charter, certificate of organization, articles of incorporation, articles of association, certificate of limited partnership, bylaws, operating agreement, partnership agreement, and any other similar documents required to be prepared or adopted by a company in connection with its organization, and as thereafter amended from time to time.
- (51) Organizational law. – The laws of the jurisdiction of organization of a company applicable to the organization of the company and its governance, including approval of transactions by its board of directors, shareholders, partners, members, or beneficiaries, as applicable.
- (52) Organizers. – One or more individuals who are the organizers of a proposed bank responsible for the business of the proposed bank from the filing of the application to the Commission's final decision on the application.
- (53) Out-of-state bank. – A bank that is organized, chartered, or created under the laws of a state other than this State and the deposits of which are insured by the FDIC.
- (54) Person. – An individual, a company, or a group of persons who are acting in concert.
- (55) Plan of conversion. – A detailed outline of the procedure of the conversion of a depository institution from one to another charter.
- (56) Practical banker. – An individual who at the time of appointment to the Commission is, or has been during the five years preceding the appointment, a president, chief executive officer, director, or holder of five percent (5%) or more of any class of voting securities of a North Carolina financial institution.
- (57) Principal office. – The office that houses the headquarters of a bank.
- (58) Public member. – A member of the Commission who is not a practical banker and who is not at the time of appointment to the Commission, nor was within the five years preceding the appointment, an employee of a North Carolina financial institution.
- (59) Public notice. – Notice to the public of the applicable information specified in this Chapter by (i) a single publication in a newspaper of general circulation in the county in which the bank that is the subject of the publication has its principal office or in such other county as may be directed by the Commissioner to best meet the purposes for which the notice is required and (ii) a posting in the notices section of the Commissioner's Web site for at least 15 days.
- (60) Record. – Information, reports, memoranda, charts, letters, messages, extracts, summaries, analyses, compilations, transaction documentation, account statements, financial statements, and other documents, including customer financial and other information, whether created, transmitted, distributed, retained, or stored in tangible or digital form.
- (61) Registered agent. – The person named in the organizational documents of a company upon whom service of legal process is deemed binding upon the company.

- (62) Required capital. – Required capital means either of the following:
- a. In the case of a proposed bank, the amount of capital required by the Commissioner as a prerequisite to the commencement of the business of banking.
 - b. In all other cases, an amount of capital equal to at least the amount of capital required for a bank to be deemed "adequately capitalized" under applicable federal regulatory capital standards.
- (63) Savings institution. – A savings and loan association or a savings bank organized under the laws of this State or of another state, or a federal savings association or savings bank.
- (64) Shareholder. – Any person in whose name shares are registered in the records of a corporation, or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.
- (65) Shares. – The units into which the equity ownership interests of a corporation are divided.
- (66) State. – Any state of the United States, the District of Columbia, or any territory of the United States other than this State.
- (67) State trust company. – A company organized under the provisions of Article 24 of Chapter 53 of the General Statutes and a trust company previously organized under other provisions of this Chapter to operate only as a trust company and not as a commercial bank.
- (68) Subsidiary. – A company over which a bank has control.
- (69) This State. – The State of North Carolina.
- (70) Trust business. – Acting as a fiduciary or in other capacities permissible for a trust institution under G.S. 53-331.
- (71) Trust company. – A trust institution that is neither a depository institution nor a foreign bank, as defined in 12 U.S.C. § 1813(s)(1), but not including a bank organized under the laws of a territory of the United States.
- (72) Trust funds. – Trust funds as defined in Section 3(p) of the Federal Deposit Insurance Act, 12 U.S.C. § 1813(p).
- (73) Trust institution. – Any company lawfully acting as a fiduciary in a state or in a foreign country.
- (74) Voting securities. – A security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the company or (ii) is convertible into, or entitles the holder to receive upon its exercise, a security that confers such a right to vote.
- (75) Well-capitalized. – The term "well-capitalized" has the same meaning as defined in Regulation Y of the Federal Reserve Board, 12 C.F.R. § 225.2(r).
- (76) Well-managed. – Except as otherwise provided in this Chapter, a company or depository institution is well-managed if the following apply:
- a. At its most recent examination, the company or institution received at least a satisfactory composite rating and at least a satisfactory rating for management, if such rating is given.
 - b. In the case of a company or depository institution that has not received an inspection or examination rating, a company or depository institution is well-managed if the Commissioner has determined, after a review of the managerial and other resources of the company or depository institution and after consulting with any other appropriate bank supervisory agency for the company or institution, that the company or institution is well-managed.

A depository institution that results from the merger of two or more depository institutions that are well-managed shall be considered to be well-managed unless the Commissioner determines otherwise after consulting with any other appropriate bank supervisory agency for each depository institution involved in the merger. A depository institution that results from the merger of a depository institution that is well-managed with one or more depository institutions that are not well-managed or have not been examined shall be considered to be well-managed if the Commissioner determines, after a review of the managerial and other resources of the resulting depository institution and after consulting with any other appropriate bank supervisory agency for the institutions involved in the merger, as applicable, that the resulting institution is well-managed.

"§ 53C-1-5. Severability.

If any provision of this Chapter is found by any court of competent jurisdiction to be invalid as to any person or circumstance, or to be preempted by federal law, the remaining provisions of this Chapter shall not be affected and shall continue to apply to any other person or circumstance."

"Article 2.

"Commission and Commissioner.

"§ 53C-2-1. The Commission.

(a) The Commission consists of 15 members, including the State Treasurer, who shall serve as an ex officio member; 12 members appointed by the Governor; and two members appointed by the General Assembly under G.S. 120-121, one of whom shall be appointed upon the recommendation of the President Pro Tempore of the Senate and one of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives. The Governor shall appoint three practical bankers, one consumer finance licensee, and eight public members to the Commission. The member appointed upon the recommendation of the President Pro Tempore of the Senate shall be a practical banker, and the member appointed upon the recommendation of the Speaker of the House shall be a practical banker. Members shall serve terms of four years. No individual shall serve more than two complete consecutive terms on the Commission. Any vacancy occurring in the membership of the Commission shall be filled by the appropriate appointing officer for the unexpired term, except that vacancies among members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. The appointed members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1. This compensation shall be paid from the revenues of the OCOB.

(b) The Commission shall meet at such times, but not less than once every three months, as the Commission may by resolution prescribe, and the Commission shall be convened in special session at the call of the Governor or the Commissioner. The State Treasurer shall be chair of the Commission. The Commission shall meet in person, provided that it may, so long as consistent with applicable law regarding public meetings, meet by telephone or video conference, including attendance of one or more members by telephone or video conferencing.

(c) Except as required by State or federal law, no member of the Commission shall divulge or make use of any information designated by this Chapter or by the Commissioner as confidential, and no member shall give out any such information unless the information shall be required of the member at a hearing at which the member is duly subpoenaed or by a court of competent jurisdiction.

(d) A quorum of the Commission shall consist of a majority of its total membership. Subject to the standards of Chapter 138A of the General Statutes, a majority vote of the members qualified with respect to a matter who are present at the meeting where such matter is considered shall constitute valid action of the Commission. In accordance with G.S. 138A-38,

the State Treasurer and all disqualified members who are present at a meeting shall be counted for purposes of determining whether a quorum is present.

(e) The Commission is authorized to supervise, direct, and review the exercise by the Commissioner of all powers, duties, and functions vested in or exercised by the Commissioner under the banking laws of this State.

"§ 53C-2-2. The Commissioner.

(a) Effective April 1, 2011, and quadrennially thereafter, the Governor shall appoint a Commissioner, which appointment shall be subject to confirmation by the General Assembly by joint resolution. The name of the individual appointed to be Commissioner shall be submitted to the General Assembly on or before February 1 of the year in which the individual's term of office begins. The term of office for the Commissioner shall be four years. In case of a vacancy in the office of Commissioner, the Governor shall appoint an individual to serve as Commissioner on an interim basis pending confirmation of a nominee by the General Assembly.

(b) The Commissioner has the powers enumerated in this Chapter and otherwise provided by North Carolina law and such other powers as may be necessary for the proper discharge of the Commissioner's duties, including the power to enter into contracts. The Commissioner shall act as the executive officer of the Commission.

(c) The Commissioner is authorized to subpoena witnesses and compel their attendance, require the production of evidence, administer oaths, and examine any person under oath in connection with any subject related to any power vested or duty imposed on the Commissioner under this Chapter.

(d) The Commissioner may sue and prosecute or defend in any action or proceeding in any courts of this State or any other state and in any court of the United States for the enforcement or protection of any right or pursuit of any remedy necessary or proper in connection with the subjects committed to the Commissioner for administration or in connection with any bank or the rights, liabilities, property, or assets thereof under the Commissioner's supervision. Nothing herein shall be construed to render the Commissioner liable to be sued except as other departments and agencies of the State may be liable under the general law. The Commissioner may exercise any jurisdiction, supervise, regulate, examine, or enforce any State consumer protection laws or federal laws with respect to which the Commissioner has enforcement jurisdiction.

(e) The Commissioner shall have a seal of office bearing the legend "State of North Carolina – Commissioner of Banks." The Commissioner may adopt other symbols or marks of office.

"§ 53C-2-3. The Office of the Commissioner of Banks.

(a) The Commissioner shall be assisted in the performance of the duties of office by (i) one or more deputy commissioners and (ii) examiners, investigators, counsel, and other employees under the supervision of the Commissioner, all of whom, together with the Commissioner, shall comprise the "Office of the Commissioner of Banks." In addition, the work of the OCOB may be conducted by employees of other agencies of government and by agents and independent contractors of the OCOB. The Commissioner may appoint or remove at his or her discretion any deputy commissioner.

(b) The Commissioner shall appoint, with the approval of the Governor, and may remove at the Commissioner's discretion, a chief deputy commissioner. The chief deputy commissioner may perform such duties and exercise such powers of the Commissioner as the Commissioner may direct. In the event of the absence, death, resignation, disability, or disqualification of the Commissioner, or in case the office of Commissioner otherwise becomes vacant, the chief deputy commissioner shall perform the duties and exercise all the powers vested in the Commissioner until the Governor appoints an acting Commissioner.

(c) Except as otherwise provided in this Chapter, the OCOB and its employees are exempt from the classification and compensation rules established by the State Personnel Commission pursuant to G.S. 126-4(1) through (4); G.S. 126-4(5) only as it applies to hours

and days of work, vacation, and sick leave; G.S. 126-4(6) only as it applies to promotion and transfer; G.S. 126-4(10) only as it applies to the prohibition of the establishment of incentive pay programs; and Article 2 of Chapter 126 of the General Statutes, except for G.S. 126-7.1. The salary of the Commissioner shall be fixed by the General Assembly.

(d) The Attorney General shall assign an attorney from the Department of Justice to work full time with the Commission. The attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. The Commission shall fully reimburse the Department of Justice for the compensation, secretarial support, equipment, supplies, records, and other property to support the attorney.

"§ 53C-2-4. Administration of the Office of the Commissioner of Banks.

(a) As authorized in Chapters 54B, 54C, and this Chapter, the OCOB shall be funded by annual or periodic assessments, licensing fees and charges, and reimbursements for examination costs. This list is not exclusive. The OCOB may not levy assessments, fees, or other charges except as expressly provided in this Chapter or by rule adopted in accordance with the provisions of Chapter 150B of the General Statutes and the provisions of this section. The Commissioner is authorized, in the exercise of reasonable discretion, to establish the time, place, and method for the payment of assessments, fees, charges, and costs.

(b) Not less than 30 days prior to the commencement of each fiscal year, the OCOB shall prepare and submit to the Commission a budget for the upcoming fiscal year, including the estimated revenues and expenses for the year. The Commission shall review the budget in a meeting prior to the commencement of the fiscal year with respect to which the budget has been presented and shall approve or modify the budget at the meeting.

"§ 53C-2-5. Rule making.

(a) The Commissioner, subject to review and approval by the Commission, may make all necessary rules with respect to the establishment, operation, conduct, and termination of any and all activities and businesses that are subject to licensing, regulation, supervision, or examination by the Commissioner under this Chapter.

(b) The rule-making authority conferred on the Commissioner by this section shall be in addition to and not in derogation of any specific rule-making authority by any other provision of this Chapter or otherwise provided by North Carolina law.

"§ 53C-2-6. Hearings and appeals.

(a) Any administrative hearing required or permitted to be held by the Commissioner shall be conducted in accordance with Article 3A of Chapter 150B of the General Statutes.

(b) Upon an appeal to the Commission by any party from an order entered by the Commissioner following an administrative hearing pursuant to Article 3A of Chapter 150B of the General Statutes, the chair of the Commission may appoint an appellate review panel of not fewer than three members to review the record on appeal, hear oral arguments, and make a recommended decision to the Commission. Unless another time period for appeals is provided by this Chapter, any party to an order by the Commissioner may, within 20 days after the order and upon written notice to the Commissioner, appeal the Commissioner's order to the Commission for review. The notice of appeal shall state the grounds for the appeal and set forth in numbered order the assignments of error for review by the Commission. Failure to state the grounds for the appeal and assignments of error shall constitute grounds to dismiss the appeal. Failure to comply with the briefing schedule provided by the Commission shall also constitute grounds to dismiss the appeal. Upon receipt of a notice of appeal, the Commissioner shall, within 30 days of the notice, certify to the Commission the record on appeal. Any party to a proceeding before the Commission may, within 20 days after final order of the Commission, petition the Superior Court of Wake County for judicial review of a final determination of any question of law that may be involved. The petition for judicial review shall be entitled "(insert name) Petitioner v. State of North Carolina on Relation of the Commission." A copy of the petition for judicial review shall be served upon the Commissioner pursuant to G.S. 150B-46. The petition shall be placed on the civil issue docket of the court and shall have precedence over other civil actions. Within 15 days of service of the petition for judicial review, the

Commissioner shall certify the record to the Clerk of Superior Court of Wake County. The standard of review of a petition for judicial review of a final order of the Commission shall be as provided in G.S. 150B-51(b).

(c) The hearing officer at administrative hearings conducted under the authority of the Commissioner may be the Commissioner, a deputy commissioner, or other suitable person designated by the Commissioner to serve as a hearing officer.

(d) The Commission may conduct public hearings on matters within its purview.

"§ 53C-2-7. Official record.

(a) The Commissioner shall keep a record in the OCOB of the Commissioner's official acts, rulings, and transactions that, except as otherwise provided, shall be open to inspection and copying by any person. The Commissioner may condition the provision of copies of records upon the payment by the person requesting the documents of an amount sufficient to cover the cost of retrieving, copying, and if requested, mailing the documents.

(b) Notwithstanding any laws to the contrary, the following records of the Commissioner shall be confidential and shall not be disclosed or be subject to discovery or public inspection:

- (1) Records compiled during or in connection with an examination, audit, or investigation of any person, including records relating to any application for licensure or otherwise to the conduct of business.
- (2) Records containing information compiled in preparation for or anticipation of or in the course of litigation, examination, audit, or investigation.
- (3) Records containing nonpublic personal information about a customer, whether in paper, electronic, or other form, that is maintained by or on behalf of the financial institution; provided, however, that every report made by a North Carolina financial institution, with respect to a transaction between it and an officer, director, or affiliate thereof, which report is required to be filed with the Commissioner pursuant to this Chapter, shall be filed with the Commissioner in a form prescribed by the Commissioner and shall be open to inspection and copying by any person.
- (4) Records containing information furnished in connection with an application bearing on the character, competency, or experience, or information about the personal finances of an existing or proposed organizer, officer, or director of a depository institution, federally chartered institution, trust institution, holding company, or any other person subject to the Commissioner's jurisdiction.
- (5) Records containing information about the character, competency, experience, or finances of the directors, officers, or other persons having control over a person giving notice or filing an application to engage in a control transaction pursuant to this Chapter.
- (6) Records containing information about the character, competency, or experience of the directors, executive officers, or other persons having control over any of the parties to a combination subject to the Commissioner's jurisdiction.
- (7) Records of North Carolina financial institutions in dissolution that have liquidated, that are under the Commissioner's supervisory control, or that are in receivership and that contain the names or other personal information of any customers of the institutions.
- (8) Records prepared by a compliance review committee or other committee of the board of directors of a North Carolina financial institution or established at the direction of such a board of directors that have been obtained by the Commissioner.

- (9) Records prepared during or as a result of an examination or investigation of any person by an agency of the United States, or jointly by the agency and the Commissioner, if the records would be confidential under federal law or regulation.
- (10) Records prepared during or as a result of an examination or investigation of any person by a regulatory agency with jurisdiction of a state other than this State or of a foreign country if the records would be confidential under that jurisdiction's law or regulations.
- (11) Records of information and reports submitted to federal regulatory agencies by any depository institution or trust institution, or its affiliates, holding company or its subsidiaries, or any other person subject to the Commissioner's jurisdiction, if the records would be confidential under federal law or regulation.
- (12) Records of complaints from the public received by the OCOB.
- (13) Any record that would disclose any information set forth in any of the confidential records referred to in this subsection.

(c) For purposes of this section, "any person subject to the Commissioner's jurisdiction" includes any person who is licensed or registered or should be licensed or registered under this Chapter.

(d) Notwithstanding the provisions of subsection (b) of this section, the Commissioner may, by written agreement with any state or federal law enforcement or regulatory agency, share with that agency any confidential record set out in subsection (b) of this section or any information contained therein, on the condition that such record or information shared shall be treated as confidential under the applicable laws and regulations governing the recipient agency.

(e) Notwithstanding the provisions of subsection (b) of this section which limit discovery of confidential records held by the Commissioner, such records may be produced for discovery in a criminal or enforcement proceeding if both of the following occur:

- (1) After reviewing the discovery request, the court orders the Commissioner to submit the confidential records to the court for in camera review and the court finds that the interests of justice require that the documents be discoverable or admissible in evidence.
- (2) After making the finding provided by subdivision (1) of this subsection, the court enters a protective order restricting access and public distribution or any republication of the confidential materials requested.

(f) Nothing in this section shall prohibit a bank, upon approval of the Commissioner, from disclosing to an insurance carrier, for the purpose of obtaining insurance coverage required by this Chapter, the bank's regulatory rating prepared by the OCOB; provided, however, that the insurance carrier must agree in writing to maintain the confidentiality of the information and not to disclose it in any manner whatsoever.

"Article 3.

"Organization of a Bank.

"§ 53C-3-1. Application to organize a bank.

(a) An applicant for permission to organize a bank and for a charter must file an application with the Commissioner. The application shall be in the form required by the Commissioner and shall contain such information as the Commissioner requires, set forth in sufficient detail to enable the Commissioner to evaluate the applicant's satisfaction of the criteria set forth in G.S. 53C-3-4. The applicant shall pay a nonrefundable application fee as provided by rule at the time of filing the application.

(b) Upon receipt of an application, the Commissioner shall conduct an examination of the applicant and any other matters deemed relevant by the Commissioner. The Commissioner may require additional information and may require the amendment of the application in the course of the examination. An applicant's failure to furnish all required information or to pay

the required fee within 30 days after filing the application may be considered an abandonment of the application.

"§ 53C-3-2. Permission to organize a bank.

(a) With the approval of the Commissioner, the organizers may file articles of incorporation for the proposed bank with the Secretary of State. The Commissioner shall authorize the organization of the proposed bank if the Commissioner is satisfied that each of the following conditions is met:

- (1) The application is complete.
- (2) The Commissioner's examination as provided for in G.S. 53C-3-1 indicates that the requirements for the issuance of a charter to the applicant are reasonably probable of satisfaction.
- (3) The proposed name of the proposed bank is not likely to mislead the public as to its character or purpose and is not the same as a name already adopted by an existing depository institution or trust institution operating in this State.

(b) If the Commissioner approves the organization of the proposed bank, the Commissioner shall issue a certificate to the Secretary of State. The Secretary of State shall transmit to the Commissioner a certified copy of the filed articles of incorporation of the proposed bank.

(c) Unless and until the Commissioner issues a charter to the proposed bank:

- (1) The proposed bank shall not transact any business except such as is incidental and necessary to its organization or the application for a charter or preparation for commencing the business of banking.
- (2) All funds paid for shares of the proposed bank shall be placed in escrow under a written escrow with a third-party escrow agent satisfactory to the Commissioner.
- (3) All funds for shares placed into escrow, and all dividends or interest on such funds, may be removed from escrow only with the Commissioner's approval except to the extent that such funds are refunded to subscribers or as otherwise required by law.

(d) A proposed bank is subject to the jurisdiction of the Commissioner.

"§ 53C-3-3. Articles of incorporation of a proposed bank.

(a) The articles of incorporation of a proposed bank shall be signed and acknowledged by or on behalf of an organizer and shall contain the following:

- (1) The information required to be set forth in articles of incorporation under Chapter 55 of the General Statutes.
- (2) Any provision consistent with Chapter 55 of the General Statutes and other applicable law that the organizers elect to set forth for the regulation of the internal affairs of the proposed bank and that the Commissioner authorizes or requires.
- (3) Any provision the Commissioner requires or authorizes as a substitute for a provision that otherwise would be required by Chapter 55 of the General Statutes.

(b) Before the chartering of a proposed bank, the articles of incorporation filed under the provisions of G.S. 53C-3-2 shall be sufficient certification to the FDIC that the proposed bank is a legal entity.

"§ 53C-3-4. Commissioner's approval of charter issuance.

(a) The Commissioner may approve a charter for a proposed bank only when the Commissioner has determined that all the following requirements have been satisfied or are reasonably probable to be satisfied within a reasonable period of time specified by the Commissioner in the order of approval:

- (1) The proposed bank has solicited or will solicit subscriptions for purchases of shares sufficient to provide an amount of required capital satisfactory to the Commissioner for the commencement of the business of banking.
- (2) All prior public solicitations for purchases of shares and all future solicitations will be solicited with appropriate disclosure, taking into account all the circumstances of the public solicitation, including a prominent statement in any solicitation document to the effect that the solicitation has not been approved by the Commissioner or the Commission and that a representation to the contrary is a criminal offense.
- (3) All payments for purchases of shares in a bank in organization are made in United States currency.
- (4) The proposed bank has an operational expense fund from which to pay organizational expenses, in an amount determined by the Commissioner to be sufficient for the safe and sound operation of the proposed bank while the charter application is pending.
- (5) The proposed bank has been formed for legitimate and lawful business purposes.
- (6) The character, competence, and experience of the organizers, proposed directors, proposed officers, and initial holders of more than ten percent (10%) of the voting securities of the proposed bank will command the confidence of the public.
- (7) The proposed officers and directors, as a group, have degrees of character, competence, and experience sufficient to justify a belief that the proposed bank will be free from improper or unlawful influence and otherwise will operate safely, soundly, and in compliance with law.
- (8) The anticipated volume and nature of business of the proposed bank projected in the application are reasonable and indicate a reasonable probability of safe, sound, and profitable operation of the proposed bank.
- (9) If the proposed bank intends to conduct "trust business," as defined by G.S. 53C-1-4(70), it appears that trust powers should be granted based on consideration of the various factors set forth in Article 24 of Chapter 53 of the General Statutes for considering applications and setting capital for a State trust company.

(b) The Commissioner's determination that the requirements described in subsection (a) are reasonably probable of satisfaction may be based on partial satisfaction of the requirements at a level set by the Commissioner as a prerequisite for approval of the charter, and also may be based on presentation of a plan for the full satisfaction of the requirements.

(c) If it appears to the Commissioner that the proposed bank has satisfied or is reasonably probable to satisfy the requirements for issuance of a charter, the Commissioner shall issue an order approving the application for a charter and such order shall be submitted to the Commission for its review at a public hearing. The Commissioner may, in the order approving the proposed bank's charter, impose other reasonable conditions or restrictions upon the proposed bank or the new bank, consistent with this Chapter.

(d) If it appears to the Commissioner that the proposed bank has not satisfied and is not reasonably probable of satisfying the requirements for issuance of a charter, the Commissioner shall issue an order denying approval of the application. The applicant may, within 10 days of issuance of the order, give notice of appeal of this decision to the Commission pursuant to G.S. 53C-2-6.

"§ 53C-3-5. Notice; public hearing.

(a) Not less than 30 days before the public hearing of the Commission to review the Commissioner's approval of an application, the applicant shall cause to be published a public notice containing the following:

- (1) A statement that the application has been filed with the Commissioner.
- (2) The name of the community where the proposed bank intends to locate its principal office.
- (3) A statement that a public hearing will be held to review the Commissioner's approval of the application.
- (4) A statement that any interested person may file a written statement either favoring or protesting the chartering of the proposed bank. The statement shall note that, in order to be considered at the public hearing, all written statements from interested persons must be filed with the Commission within 30 days of the date of publication of the public notice.

(b) At the public hearing, the Commission shall consider the findings and order of the Commissioner and shall hear such testimony as the Commissioner may wish to give or be called upon to give. To the extent that the Commission deems the information and testimony relevant to its review of the Commissioner's order, the Commission shall receive information and hear testimony from the organizers and shall hear from any other interested persons.

"§ 53C-3-6. Commission decision.

(a) The Commission shall consider the findings and order of the Commissioner, oral testimony, and any other information and evidence, either written or oral, that comes before it at the public hearing to review the Commissioner's approval of an application for a charter. The Commission may adjourn and reconvene the public hearing in unusual circumstances. The Commission shall affirm or reverse the Commissioner's order. The Commission may adopt the Commissioner's recommendation with respect to conditions for issuance of a charter, or it may modify the conditions recommended by the Commissioner. The Commission shall render its decision at the public hearing, unless unusual circumstances require postponement of the decision. The Commission's review shall be limited to a determination of whether the criteria set forth in G.S. 53C-3-4 have been met and whether the provisions of this Article have been followed.

(b) If the Commission denies an application for a charter or if the Commission approves an application with conditions not set forth in the Commissioner's approval, the applicant may appeal the denial or approval containing such conditions, as provided in G.S. 53C-2-6.

"§ 53C-3-7. Issuance of charter.

(a) A proposed bank shall not engage in business except as allowed under G.S. 53C-3-2(c)(1), until it receives a charter issued by the Commissioner. The Commissioner shall not issue the charter until the Commissioner is satisfied that the proposed bank has done each of the following:

- (1) Received payment in United States currency for the purchase of shares and will have satisfactory required capital upon commencing business, in each case in at least the amount required by the Commission's order approving the application.
- (2) Elected the proposed officers and directors named in the application or other officers and directors approved by the Commissioner.
- (3) Secured deposit insurance from the FDIC.
- (4) Complied with all requirements of the Commission's order approving the application for a charter.
- (5) Appears to be ready to commence the business of banking in the reasonable discretion of the Commissioner upon a pre-opening examination.

(b) The charter issued by the Commissioner shall set forth any trust powers of the bank that may be full or partial trust powers.

(c) If a bank does not open and engage in the business of banking within six months after the date its charter is issued or within such longer period as may be permitted by the Commissioner, the Commissioner shall revoke the charter.

(d) If the Commissioner determines that a charter should not be issued following Commission approval, the applicant may appeal that decision to the Commission as provided in G.S. 53C-2-6.

(e) Following the exhaustion of all appeals, the Commissioner may dissolve and liquidate the proposed bank as provided in G.S. 53C-9-301, or order the organizers to dissolve and liquidate the proposed bank pursuant to G.S. 53C-9-201, if any one of the following occurs:

- (1) The Commissioner does not recommend the issuance of a charter.
- (2) The Commission denies approval of a charter.
- (3) The charter is revoked by the Commissioner pursuant to subsection (c) of this section or other applicable law.

"Article 4.

"Governance of Banks.

"§ 53C-4-1. Banks – form of organization.

(a) A bank shall be formed as, and shall maintain the form of, a corporation formed under the laws of this State.

(b) The provisions contained in Chapter 55 of the General Statutes shall apply to banks, except where provisions of this Chapter provide differently or where the Commissioner determines that any provision of Chapter 55 is inconsistent with the business of banking or the safety and soundness of banks.

"§ 53C-4-2. Banks controlled by boards of directors.

(a) The corporate powers of a bank shall be exercised by or under the authority of, and the business and affairs of the bank shall be managed by or under the direction of, its board of directors.

(b) A bank's board of directors shall consist of not fewer than five individuals. For good cause shown, the Commissioner may approve boards of directors consisting of fewer than five individuals to the extent consistent with other applicable law.

(c) The board of directors shall meet at least quarterly, provided that the executive committee shall meet in any month in which there is no meeting of the board of directors, and the loan committee shall meet monthly.

(d) Except to the extent the provisions of this Chapter or other applicable federal or state laws and regulations impose a different standard, bank directors shall have the duties, authority, and liabilities of directors of corporations organized under Chapter 55 of the General Statutes.

(e) The board of directors of a bank may appoint directors with respect to such of the bank's branches as it deems useful to the business of the bank. No such advisory director shall be liable for acts or omissions undertaken as an advisory director under the laws applicable to the performance of the duties of a director of a bank, unless and only to the extent he or she undertakes or is delegated authority as a director of the bank.

"§ 53C-4-3. Committees of boards of directors.

(a) The board of directors shall appoint, at a minimum, an audit committee, an executive committee, and a loan committee (which may be the executive committee or the board of directors as a whole) and may appoint such other committees as it deems appropriate to provide for the safe and sound operation of the bank in a manner consistent with applicable laws and regulations.

(b) The Commissioner may require the board of directors of a bank to establish one or more additional committees if, in the judgment of the Commissioner, such committees are reasonably necessary or appropriate for good corporate governance, for the safe and sound operation of the bank, or to ensure the bank's compliance with applicable laws and regulations. In the exercise of his or her judgment under this subsection, the Commissioner may consider, among other factors, the asset size of the bank, the range and complexity of the activities in which the bank is engaged, the various risks undertaken by the bank, the experience and

abilities of the bank's directors and officers, and the adequacy of the bank's existing policies, procedures, and internal controls.

"§ 53C-4-4. Minutes of meetings of directors and committees.

Minutes shall be recorded and retained for all meetings of the board of directors and board committees and kept on file at the bank. The minutes shall show a record of actions taken.

"§ 53C-4-5. Qualifications of bank directors.

(a) At least three-fourths of the directors of a bank shall be citizens of the United States of America.

(b) A director must satisfy eligibility requirements for bank directors imposed by federal law, including Section 19 of the Federal Deposit Insurance Act, 12 U.S.C. § 1829(a).

(c) A director must do either of the following:

(1) Appoint an agent in Wake County, North Carolina, for service of process.

(2) Consent, on a form satisfactory to the Commissioner, to the following:

a. The Commissioner may serve as the director's agent for service of process.

b. The director consents to jurisdiction in Wake County, North Carolina, but only for purposes of any action or proceeding brought by the Commissioner.

"§ 53C-4-6. Liability of directors.

(a) The standard of conduct for directors shall be as set forth in G.S. 55-8-30.

(b) Any director of any bank who shall knowingly violate, or who shall knowingly permit to be violated by any officers, agents, or employees of the bank, any of the provisions of this Chapter shall be held personally and individually liable for all damages which the bank, its shareholders, or any other person shall have sustained in consequence of such violation. Any aggrieved shareholder of any bank in liquidation may prosecute an action for the enforcement of the provisions of this section. Only one such action may be brought.

"§ 53C-4-7. Directors may declare distributions.

Provided a bank does not make distributions that reduce its capital below its applicable required capital, the board of directors of a bank may declare such distributions as it deems proper.

"§ 53C-4-8. Officers and employees shall give bond.

(a) A bank shall require security in the form of a bond for the fidelity and faithful performance of duties by its officers and employees. The bond shall be issued by a bonding company authorized to do business in this State and upon such form as may be approved by the Commissioner. Otherwise, the amount, form, and terms of the bond shall be such as the board of directors may require. The premium for the bond is to be paid by the bank.

(b) To provide for the safety and soundness of a bank, the Commissioner may require an increase in the amount of the bond or additional or different security.

"§ 53C-4-9. Affiliate transactions.

A bank may extend credit to, and engage in transactions with, its affiliates, directors, executive officers, principal shareholders, and their respective immediate family members only to the extent permitted by, and subject to such restrictions and conditions as are imposed by, applicable State and federal laws and regulations.

"§ 53C-4-10. Examination of board composition, structure, and conduct.

(a) As part of its examinations of a bank, the OCOB may assess the competence, composition, structure, and conduct of such bank's board of directors, including the following:

(1) The number of directors.

(2) The independence of directors.

(3) The committee structure of the board.

(4) The education and training of board members.

(5) Compliance with the bank's code of ethics.

(b) In making the assessment authorized by subsection (a) of this section, the OCOB shall take into consideration publicly issued regulations and guidance of the Commissioner and the bank's primary federal supervisor and may consider, among other factors, the asset size of the bank, the range and complexity of the activities in which the bank is engaged, the various risks undertaken by the bank, the experience and abilities of the bank's directors and officers, and the adequacy of the bank's existing policies, procedures, and internal controls.

"§ 53C-4-11. Reserve fund.

(a) Each bank shall maintain a reserve fund as follows:

- (1) If the bank is a member of the Federal Reserve System, it shall maintain a reserve fund in accordance with the requirements of the Federal Reserve Board.
- (2) All other banks shall maintain a reserve fund as required by the Commissioner.

(b) The Commissioner may require a level of reserve fund for nonmember banks as provided in subsection (a)(2) of this section, taking into consideration the level of liquidity the Commissioner deems necessary for the safe and sound operation of the banks.

(c) In establishing the required level of reserve fund, the Commissioner shall include the following types of liquid reserves:

- (1) Cash on hand, which shall include both United States currency and exchange of any clearinghouse association or similar intermediary.
- (2) Balances on demand from designated depository institutions.
- (3) Obligations of the United States Treasury, any agency of the United States government that is guaranteed by the United States government, and any general obligation of this State or any political subdivision thereof that has an investment grade rating of A or higher by a nationally recognized rating service.

(d) Notwithstanding any other provision of this Chapter, in the event the reserve fund of a bank falls below the level required under subsection (b) of this section, the Commissioner may require the bank to do the following:

- (1) Discontinue making any new extension of credit.
- (2) Promptly restore its reserve fund to the applicable required level.

(e) In the event a bank shall fail to promptly restore its reserve fund to the applicable level required within 10 days after the Commissioner directs it to do so, the Commissioner may take such actions under Article 8 of this Chapter as the Commissioner deems necessary.

"§ 53C-4-12. Compliance review committee.

(a) For purposes of this section, the following definitions apply:

- (1) "Compliance review committee" means an audit, loan review, or compliance committee appointed by the board of directors of a bank, or any other person to the extent the person acts at the direction of or reports to such a committee, whose functions are to audit, evaluate, report, or determine compliance with any of the following:
 - a. Loan underwriting standards.
 - b. Asset quality.
 - c. Financial reporting to federal or State regulatory agencies.
 - d. Adherence to the bank's investment, lending, accounting, ethical, or risk assessment, and financial standards.
 - e. Compliance with federal or State statutory requirements.
- (2) "Compliance review documents" means documents prepared for or created by a compliance review committee.
- (3) "Government agency" means a state or federal regulatory body that is not a bank supervisory agency that has jurisdiction over a bank's compliance with state or federal laws or regulations, including those dealing with taxes, securities, or financial reporting.

- (4) "Loan review committee" means a person or group of persons who, on behalf of a bank, reviews assets, including loans held by the bank, for the purpose of assessing the credit quality of the loans or the loan application process, compliance with the bank's investment and loan policies, and compliance with applicable law and regulations.

(b) Banks shall maintain complete records of compliance review documents, and the documents shall be available for examination by the Commissioner or any bank supervisory agency or government agency having jurisdiction. Notwithstanding Chapter 132 of the General Statutes, compliance review documents in the custody of a bank, the Commissioner, a government agency, or a bank supervisory agency are confidential, are not open for public inspection, and are not discoverable or admissible in evidence in a civil action against a bank, its directors, officers, or employees, unless the court finds that the interests of justice require that the documents be discoverable or admissible in evidence.

"Article 5.

"Powers of Banks.

"§ 53C-5-1. Powers.

(a) Except as otherwise specifically provided by this Chapter, a bank shall have the powers conferred upon business corporations organized under the laws of this State. In addition, and not by way of limitation, a bank shall have the power to do the following:

- (1) Carry on the business of banking, which includes such activities as discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of indebtedness; receiving deposits; issuing, advising, and confirming letters of credit; receiving money for transmission; and loaning money on personal security or on real or personal property.
- (2) Make any loan that could be made by a federally chartered institution doing business in this State.
- (3) Purchase or invest in loans, or a participating interest in loans, of a type that the bank could itself make.
- (4) Sell any loan, including one or more participating interests in a loan.
- (5) Make any investments authorized by G.S. 53C-5-2 or any other section of this Chapter.
- (6) Through information technology systems, processes, and capabilities, provide, deliver, or otherwise make available banking services and products, enhance the effectiveness or efficiency of its operations, and provide other benefits to its customers. Additionally, a bank may utilize its information technology systems, processes, capabilities, and capacities in the same manner and to the same extent as is permitted for national banks.
- (7) Engage in any other activities approved by rule, order, or interpretation of the Commissioner.

(b) A bank shall also have the power to engage:

- (1) As principal in any activity permissible for a national bank under any law, including the National Bank Act, 12 U.S.C. § 24, as well as any activity recognized as permissible for a national bank in any regulation, order, or written interpretation issued by the OCC.
- (2) As principal in any activity that is permissible or determined by the FDIC to be permissible for a bank under the Federal Deposit Insurance Act, 12 U.S.C. § 1831a, or in any regulation, order, or written interpretation thereunder.
- (3) As principal in any activity that is permissible for a savings institution organized under Chapters 54B or 54C of the General Statutes, or that is permissible for a federal savings association under the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464, or in any regulation, order, or written interpretation thereunder.

(4) In any activity other than as principal permitted under the Federal Deposit Insurance Act, 12 U.S.C. § 1831a.

(c) In addition to the other powers described in this section, a bank shall have the power to exercise all other powers that are reasonably necessary or incident to the exercise of the powers authorized in subsections (a) and (b) of this section.

(d) Except as provided in subsection (e) of this section, a bank that proposes to engage in any new activity shall apply to the Commissioner for approval to engage in the activity before its commencement. If the new activity will be conducted in a new or existing subsidiary in which the bank intends to make an investment, the bank shall apply to the Commissioner for approval to engage in the activity before entering into the investment. The bank shall not engage in the activity or make the investment unless and until the Commissioner issues a written approval of the application. An application for approval shall contain a description of the proposed activity and any other information required by the Commissioner. A copy of any notice or application the bank is required to file with any bank supervisory agency with respect to the proposed activity shall also be provided to the Commissioner. For the purpose of this section, a "new activity" is any business activity in which the bank is not currently engaged. The extension or relocation of an existing activity into a new department, division, or subsidiary of the bank shall not be considered a new activity.

(e) No application for approval to engage in a new activity shall be required, provided all of the following conditions are met as of the date the activity is commenced:

- (1) The new activity is one described in subsection (a), (b), or (c) of this section.
- (2) The bank is well-capitalized and well-managed as demonstrated by the supervisory rating it received during its most recent safety and soundness examination.
- (3) No notice or application to engage in the new activity is required to be filed by the bank with any federal banking regulator.

(f) A bank permitted to commence a new activity without prior application and approval pursuant to subsection (e) of this section shall notify the Commissioner in writing of the commencement of the new activity no later than the 30th day after the earlier of (i) commencing the new activity or (ii) if applicable, making an investment in a subsidiary through which the new activity will be conducted.

"§ 53C-5-2. Investment authority.

(a) In addition to any powers or investments authorized by any other section of this Chapter, a bank may invest in the following:

- (1) The shares or other securities of the following:
 - a. Any other depository institution.
 - b. Any industrial bank, bankers' bank, or other deposit-taking entity chartered or existing under any federal or State law, including the shares or other securities of clearing corporations defined in G.S. 25-8-102, the shares or other securities of central reserve banks, and the shares of an Edge Act bank. The investment of any bank in the shares of a central reserve bank or bank organized under the Edge Act, 12 U.S.C. § 611, et seq., shall at no time exceed ten percent (10%) of the required capital of the bank making the investment.
 - c. Any company in which a federally chartered institution is authorized to invest under any statute or any regulation, official circular, bulletin, order, or written interpretation issued by the OCC.
- (2) Bonds or notes issued by or fully and unconditionally guaranteed as to principal and interest by the United States Treasury. No bank shall be required to maintain a reserve against deposits secured by United States Treasury bonds or notes equal in market value to the amount of such deposits, and such bonds or notes shall be valid security for all loans and deposits to the same extent as are any obligations of the United States.

- (3) Federal farm loan bonds, notes, or similar obligations issued by a farm credit system institution.
 - (4) Securities issued by federal home loan banks pursuant to the Federal Home Loan Bank Act of 1932, as amended.
 - (5) Bonds or notes secured by a mortgage or deed of trust insured or guaranteed by the Federal Housing Administration, Secretary of Housing and Urban Development, or the Veterans Administration, or in mortgages or deeds of trust on real estate that have been accepted for insurance or guarantee by the Federal Housing Administration, Secretary of Housing and Urban Development, or Veterans Administration, or in obligations of a national mortgage association, which obligations are insured or guaranteed by the United States government. No law of this State prescribing the nature, amount, or form of security or requiring security upon which loans or investments may be made, or prescribing the rates or time of payment of the interest any obligation may bear, or prescribing the period for which loans or investments may be made, shall apply to investments made pursuant to this subsection.
 - (6) Mutual funds, but subject to rules or orders adopted by the Commissioner.
- (b) A bank may make an investment in a subsidiary that will be operated as any of the following:
- (1) Bank operating subsidiary.
 - (2) Financial subsidiary.
 - (3) DPC subsidiary, as defined by G.S. 53C-1-4(30).
- (c) An investment by a bank or a bank subsidiary pursuant to subsection (b) or (d) of this section shall receive the same accounting and regulatory treatment as is accorded to such investment by the bank's primary federal supervisor. No investment shall be made by a bank or a bank subsidiary pursuant to subsection (b) or (d) of this section unless the following apply:
- (1) The investment is approved by the board of directors of the bank.
 - (2) The bank has carefully investigated the business or activity in which the subsidiary established by the investment will engage.
 - (3) The bank has established the risk management and financial controls necessary to engage in the business or activity in a safe and sound manner.
 - (4) The bank has, and following the making of the investment and the application of the provisions of this subsection, will continue to satisfy the capital requirements of this Chapter.
- (d) A bank operating subsidiary may make an investment of any size in a lower tier subsidiary.
- (e) Except as provided in subsection (f) of this section, a bank or bank operating subsidiary proposing to make an investment described in subsection (b), (c), or (d) of this section shall give prior written notice to the Commissioner, providing such detail as the Commissioner may require. Unless the Commissioner, within 30 days following receipt of the notice, notifies the bank or bank operating subsidiary that the Commissioner objects to the proposed investment, the bank or bank operating subsidiary may complete the investment. However, the Commissioner may extend the period within which to object to the proposed investment if the Commissioner determines that it raises issues that require additional information or additional time for analysis. While the objection period is so extended, the bank or bank operating subsidiary may not proceed with respect to the proposed investment.
- (f) The prior notice requirement provided by subsection (e) of this section shall not apply if all of the following apply:
- (1) The bank is well-capitalized and well-managed as demonstrated by the supervisory rating it received during its most recent examination.

- (2) Each activity of the subsidiary in which the investment is to be made is either of the following:
- a. One in which the bank is then engaged or has previously been engaged, directly or through a different subsidiary, and for which all necessary approvals of bank supervisory agencies and of the Commissioner have previously been obtained and remain in effect.
 - b. One for which no prior notice or application for approval to any federal bank supervisory authority is required.
- (3) A bank that makes an investment pursuant to the exception created by this subsection shall nevertheless notify the Commissioner in writing of the investment within 30 days thereafter.

(g) Any bank, out-of-state bank, national bank, or any subsidiary thereof that engages in an activity subject to licensure and/or regulation under the laws of this State, other than this Chapter, shall be subject to licensure and/or regulation on a basis that does not arbitrarily discriminate by the appropriate regulatory agency which licenses and/or regulates nonbanks that engage in the same activity.

(h) The Commissioner shall monitor the impact of investment activities of banks and their subsidiaries under this section on the safety and soundness of such banks. Any securities owned or hereafter acquired in excess of the limitations herein imposed shall be disposed of at public or private sale within six months after the date of acquiring the securities and, if not so disposed of, they shall be charged to profit and loss account and no longer carried on the books as an asset. The limit of time in which securities shall be disposed of or charged off the books of the bank may be extended by the Commissioner if in the Commissioner's judgment it is for the best interest of the bank that the extension be granted, provided that the limitations imposed in this section on the ownership of shares or other equity ownership interest in companies are suspended only to the extent that any bank operating under the supervision of the Commissioner may subscribe for and purchase shares and other equity ownership interests in, or debentures, bonds, or other types of securities of, any company organized under the laws of the United States for the purposes of insuring the depositors a part or all of their funds on deposit in banks to the extent as security ownership is required in order to obtain the benefits of deposit insurance for such depositors.

(i) A bank may purchase, hold, and convey real estate other than bank premises for the following purposes:

- (1) As security for extensions of credit made or moneys due to it when that real estate has been mortgaged to it in good faith.
- (2) When the real estate has been purchased at sales upon foreclosures of mortgages and deeds of trust held or owned by it, or on judgments or decrees obtained and rendered for debts due to it, or through deeds in lieu of foreclosure or other settlements affecting security of those debts. All real property acquired under this subdivision shall be sold by the bank within five years after it is acquired unless, upon application by the bank, the Commissioner extends the time within which the sale shall be made.

(j) A bank's investment in any bonds or other debt obligations of any one person, other than obligations of the United States government or an agency thereof, or other obligations guaranteed by the United States, this State, another state, or other political subdivision of this State or another state, shall at no time exceed ten percent (10%) of its required capital.

"§ 53C-5-3. Banks, fiduciaries authorized to invest in securities approved by the Secretary of Housing and Urban Development, Federal Housing Administration, Veterans Administration.

(a) Insured Mortgages and Obligation of National Mortgage Associations and Federal Home Loan Banks. – It shall be lawful for all commercial and industrial banks, trust companies, building and loan associations, savings and loan associations, insurance companies, mortgagees and loan correspondents approved by the Secretary of Housing and Urban

Development or Federal Housing Administration, and other financial institutions engaged in business in this State, and for guardians, executors, administrators, trustees, or others acting in a fiduciary capacity in this State to invest, to the same extent that such funds may be invested in interest-bearing obligations of the United States, their funds or moneys in their custody or possession that are eligible for investment, in bonds or notes secured by a mortgage or deed of trust insured or guaranteed by the Federal Housing Administration, Secretary of Housing and Urban Development, or the Veterans Administration, or in mortgages or deeds of trust on real estate which have been accepted for insurance or guarantee by the Federal Housing Administration, Secretary of Housing and Urban Development, or Veterans Administration, and in obligations of a national mortgage association, which obligations are insured or guaranteed by the United States Government, or bonds, debentures, consolidated bonds, or other obligations of any federal home loan bank or banks.

(b) Insured or Guaranteed Loans; Loans Purchased by National Mortgage Associations and Federal Home Loan Banks. – All such banks, trust companies, building and loan associations, savings and loan associations, insurance companies, mortgagees and loan correspondents approved by the Secretary of Housing and Urban Development or Federal Housing Administration, and other financial institutions, and also all such guardians, executors, administrators, trustees, or others acting in a fiduciary capacity in this State, may make such loans, secured by real estate, as the Secretary of Housing and Urban Development, the Federal Housing Administration, a national mortgage association, or the Veterans Administration has insured or guaranteed, or has made a commitment to insure or guarantee, and may obtain such insurance or guarantee; provided, further, that the above designated financial institutions may make loans, secured by real estate, that are eligible and committed for sale to a national mortgage association, federal home loan bank, federal home loan mortgage corporation, or other agency or instrumentality of the United States.

(c) Eligibility for Credit Insurance. – All banks, trust companies, building and loan associations, savings and loan associations, insurance companies, mortgagees and loan correspondents approved by the Secretary of Housing and Urban Development or Federal Housing Administration, and other financial institutions, on being approved as eligible for credit insurance by the Secretary of Housing and Urban Development, the Federal Housing Administration, or the Veterans Administration, may make such loans as are insured by the Secretary of Housing and Urban Development or Federal Housing Administration or insured or guaranteed by the Veterans Administration.

(d) Certain Securities Made Eligible for Collaterals. – Whenever by statute of this State collateral is required as security for the deposit of public or other funds; or deposits are required to be made with any public official or department; or an investment of capital or surplus, or a reserve or other fund is required to be maintained, consisting of designated securities, bonds, and notes secured by a mortgage or deed of trust insured or guaranteed by the Secretary of Housing and Urban Development, Federal Housing Administration, or Veterans Administration, debentures issued by the Secretary of Housing and Urban Development or the Federal Housing Administration and obligations of a national mortgage association shall be eligible for such purposes.

(e) General Laws Not Applicable. – No law of this State prescribing the nature, amount, or form of security or requiring security upon which loans or investments may be made, or prescribing or limiting the rates or time of payment of the interest any obligation may bear, or prescribing or limiting the period for which loans or investments may be made, shall be deemed to apply to loans or investments made pursuant to the foregoing paragraphs.

"Article 6."Bank Operations."§ 53C-6-1. Loans and extensions of credit.

(a) A bank may make a loan or extension of credit secured by the pledge of its own shares or the shares of its holding company, provided:

- (1) When a bank exercises its security interest in shares of the bank or its holding company, it shall dispose of all of the shares within a period of six months. If the shares have not been disposed of within six months, the shares shall be charged to profit and loss and no longer carried as an asset of the bank. The Commissioner may extend the six-month period not to exceed an additional six months.
- (2) A bank may not extend credit to finance the purchase of or to carry shares of the bank or the shares of its holding company. For purposes of this subsection, the phrase "to carry" has the meaning set forth in 12 C.F.R. Part 221, as promulgated by the Federal Reserve Board.

(b) Loans and Extensions of Credit – Limitations:

- (1) The total loans and extensions of credit, both direct and indirect, by a bank to a person, other than a municipal corporation for money borrowed, including in the liabilities of a company the liabilities of the several members of the company, outstanding at one time and not fully secured, as determined in a manner consistent with subdivision (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit, shall not exceed the greater of fifteen percent (15%) of the capital of the bank or the percentage permitted for national banks in this State by statute or regulation of the Comptroller of the Currency.
- (2) The total loans and extensions of credit, both direct and indirect, by a bank to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the loan or extension of credit outstanding, shall not exceed the greater of ten percent (10%) of the capital of the bank or the percentage permitted for national banks by statute or regulation of the Comptroller of the Currency. This limitation shall be separate from and in addition to the limitation contained in subdivision (1) of this subsection.
- (3) The following shall not be considered as extensions of credit within the meaning of this section; provided that the limitations of this subsection shall not apply to loans or obligations to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or purchase the same made by any federal reserve bank or by the United States or any department, board, bureau, commission, or establishment of the United States, including any corporation wholly owned, directly or indirectly, by the United States.
 - a. The discount of bills of exchange drawn in good faith against actual existing values.
 - b. The discount of solvent trade acceptances or other solvent commercial or business paper actually owned by the person negotiating the same.
 - c. Loans or extensions of credit secured by a segregated deposit account in the lending bank.
 - d. The purchase of bankers' acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other depository institutions.

- e. The purchase of any notes and the making of any loans secured by not less than a like face amount of bonds of the United States or any agency of the United States; or other obligations guaranteed by the United States government or the State of North Carolina; or certificates of indebtedness of the United States, or agency thereof; or other obligations guaranteed by the United States government.
- (4) For purposes of this subsection, the following definitions and conditions apply:
 - a. "Person" includes an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed; provided, the term "person" shall not include (i) a clearing organization registered with the Commodity Futures Trading Commission (or its successor) or the Securities and Exchange Commission (or its successor) or any federal banking agency or (ii) a bank's affiliates.
 - b. Loans or extensions of credit to one person include loans made to other persons when the proceeds of the loans or extensions of credit are to be used for the direct benefit of the first person or the persons are engaged in a common enterprise.
 - c. For purposes of this section, extensions of credit by a bank to a person shall include the bank's credit exposures to the person in derivative transactions with the bank.
 - d. "Derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to one or more commodities, securities, debt instruments, currencies, interest or other rates, indices, or assets.
 - e. Credit exposure to a person in connection with a derivative transaction shall be determined based on an amount that the bank reasonably determines, in accordance with customary industry practices under the terms of the derivative transaction or otherwise, would be its loss if the person were to default on the date of determination, taking into account any netting and collateral arrangements and any guarantees or other credit enhancements, provided that the bank may elect to determine credit exposure on the basis of such other method of determining credit exposure as may be permitted by the bank's primary federal regulator.

(c) The Commissioner shall monitor the lending activities of banks under this section for undue credit concentrations and inadequate risk diversification that could adversely affect the safety and soundness of the banks.

(d) Rules adopted by the Commissioner to ensure that extensions of credit made by banks are in keeping with sound lending practices and to promote the purposes of this Chapter shall not prohibit a bank from making any extension of credit that is a permitted extension of credit for a federally chartered institution.

"§ 53C-6-2. Deposits.

(a) A bank may, consistent with applicable law and safe and sound banking practices, offer all types of deposit accounts upon such terms and conditions as the bank considers appropriate.

(b) A bank shall secure insurance for its deposits from the FDIC.

"§ 53C-6-3. Securing deposits.

(a) A bank may not create a lien on its assets or otherwise secure the repayment of a deposit, except as authorized or required by this section, other laws of this State, or federal law.

(b) A bank may pledge its assets to secure a deposit of the government of this State or any other state, any agency or political subdivision of this State or any other state, the United States government, any agency or instrumentality of the United States, or any Indian tribe recognized by the United States government as eligible for the services provided to Indian tribes by the Secretary of the Interior because of its status as an Indian tribe.

(c) This section does not prohibit the pledge of assets by a bank to secure the repayment of money borrowed.

(d) An act, deed, conveyance, pledge, or contract in violation of this section is void.

"§ 53C-6-4. Minors.

(a) A bank may issue and operate a deposit account in the name of a minor or in the name of two or more individuals, one or more of whom are minors, and receive payments, pay withdrawals, accept a pledge of the account, issue automated teller machine (ATM) and debit cards, contract for overdraft protection, and act in any other manner with respect to the account on the order of the minor with like effect as if the minor were of full age and legal capacity. Any payment to or at the direction of a minor is a discharge of the bank to the extent thereof. The account shall be held for the exclusive right and benefit of the minor and any joint owners, free from the control of all other persons except creditors. A minor who obtains a deposit account from a bank under this subsection, whether individually or together with others, is bound by the terms of the deposit account agreement to the same extent as if the minor were of full age and legal capacity.

(b) Any bank may lease a safe deposit box to a minor or to two or more individuals, one or more of whom are minors. With respect to any such lease, a bank may deal with the minor in all regards as if the minor were of full age and legal capacity. A minor entering a lease agreement with a bank under this subsection, whether individually or together with others, is bound by the terms of the safe deposit box agreement to the same extent as if the minor were of full age and legal capacity.

(c) If a minor with a deposit account, other than a joint account with right of survivorship or a Payable on Death account, dies, a parent or legal guardian of the minor may access and withdraw the funds on deposit, and the bank is discharged to the extent of any withdrawal. If a minor with a safe deposit box dies, the provisions of G.S. 28A-15-13 shall control the opening, inventory, and release of contents of the safe deposit box.

(d) This section shall not affect the law governing transactions with minors in cases outside the scope of this section, including transactions that constitute an extension of credit to the minor.

"§ 53C-6-5. Reserved for future codification purposes.

"§ 53C-6-6. Joint accounts.

(a) Any two or more individuals may establish a joint deposit account by written contract. The deposit account shall be held for them as joint tenants. The account also may be held pursuant to G.S. 41-2.1 of the General Statutes and have the incidents set forth in that section. If the account is held pursuant to G.S. 41-2.1, the contract shall set forth that fact.

(b) Unless the individuals establishing a joint account have agreed with the bank that withdrawals require more than one signature, payment by the bank to, or at the direction of, any joint tenant designated in the contract authorized by this section shall be a total discharge of the bank's obligation as to the amount so paid.

(c) Funds in a joint account established with right of survivorship shall belong to the surviving joint tenant or tenants upon the death of a joint tenant, and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(3), or as provided in G.S. 41-2.1 if the account is established pursuant to the provisions of that section. Payment by the bank of funds in the joint account to a surviving joint tenant or tenants shall terminate the personal representative's authority under G.S. 28A-15-10(a)(3) to collect

against the bank for the funds so paid, but the personal representative's authority to collect such funds from the surviving joint tenant or tenants is not terminated.

(d) A pledge of a joint account by any one or more of the joint tenants, unless otherwise specifically agreed between the bank and all joint tenants in writing, shall be a valid pledge and transfer of the account or of the amount so pledged, shall be binding upon all joint tenants, shall not operate to sever or terminate the joint ownership of all or any part of the account, and shall survive the death of any joint tenant.

(e) A bank is not liable to joint tenants for complying in good faith with a writ of execution, garnishment, attachment, levy, or other legal process that appears to have been issued by a court or other authority of competent jurisdiction and seeks funds held in the name of any one or more of the joint tenants.

(f) Persons establishing a joint account with right of survivorship under this section shall sign a statement showing their election of the right of survivorship in the account and containing language set forth in a conspicuous manner and substantially similar to the following:

"BANK (or name of institution)
JOINT ACCOUNT WITH RIGHT OF SURVIVORSHIP
G.S. 53C-6-6

We understand that by establishing a joint account under the provisions of North Carolina General Statute 53C-6-6 that:

- (1) The bank (or name of institution) may pay the money in the account to, or on the order of, any person named as a joint holder of the account unless we have agreed with the bank that withdrawals require more than one signature; and
- (2) Upon the death of one joint owner, the money remaining in the account will belong to the surviving joint owners and will not pass by inheritance to the heirs of the deceased joint owner or be controlled by the deceased joint owner's will.

_____ "

(g) This section does not repeal or modify any provision of law relating to estate taxes.

(h) Any joint tenant may terminate a joint account.

(i) Where a joint account is held by two or more individuals and a joint tenant does not wish for the account to be terminated but requests to be removed from the account, the bank shall remove the joint tenant from the account. The joint account shall continue in the names of the remaining tenant or tenants. Any joint tenant who requested to be removed from an account remains liable for any debts incurred in connection with the joint account during the period in which the individual was a named joint tenant.

(j) Any joint account created under the provisions of G.S. 53-146.1 as it existed prior to the effective date of this section shall for all purposes be governed by the provisions of this section after the effective date of this section, and any reference to G.S. 53-146.1 in any statement electing a right of survivorship shall be deemed a reference to this section.

(k) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law, as appropriate.

"§ 53C-6-7. Payable on Death accounts.

(a) If any natural person establishing a deposit account shall execute a written agreement with the bank containing a statement that it is executed pursuant to the provisions of this section and providing for the account to be held in the name of the natural person as owner for one or more beneficiaries, the account and any balance thereof shall be held as a Payable on Death account. The account shall have the following incidents:

- (1) Any owner during the owner's lifetime may change any designated beneficiary by a written direction to the bank.
- (2) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except as otherwise provided in this section, the account shall have the incidents set forth in G.S. 53C-6-6.
- (3) Any owner may withdraw funds by writing checks or otherwise, as set forth in the account contract, and receive payment in cash or check payable to the owner's personal order.
- (4) If the beneficiary is a natural person, there may be one or more beneficiaries, and the following shall apply:
 - a. If only one beneficiary is living and of legal age at the death of the last surviving owner, the beneficiary shall be the owner of the account and payment by the bank to the owner shall be a total discharge of the bank's obligation as to the amount paid. If two or more beneficiaries are living at the death of the last surviving owner, they shall be owners of the account as joint tenants with right of survivorship as provided in G.S. 53C-6-6, and payment by the bank to the owners or any of the owners shall be a total discharge of the bank's obligation as to the amount paid.
 - b. If only one beneficiary is living and that beneficiary is not of legal age at the death of the last surviving owner, the bank shall transfer the funds in the account to the general guardian or guardian of the estate, if any, of the minor beneficiary. If no guardian of the minor beneficiary has been appointed, the bank shall hold the funds in a similar interest-bearing account in the name of the minor until the minor reaches the age of majority or until a duly appointed guardian withdraws the funds.
- (5) If the beneficiary is an entity other than a natural person, there shall be only one beneficiary.
- (6) If one or more owners survive the last surviving beneficiary who was a natural person, or if a beneficiary who is an entity other than a natural person should cease to exist before the death of the owner, the account shall become an individual account of the owner, or a joint account with right of survivorship of the owners, and shall have the legal incidents of an individual account in a case of a single owner or a joint account with right of survivorship, as provided in G.S. 53C-6-6, in the case of multiple owners.
- (7) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a Payable on Death account established pursuant to this subsection shall belong to the beneficiary or beneficiaries upon the death of the last surviving owner, and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(1). Payment by the bank of funds in the Payable on Death account to the beneficiary or beneficiaries shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the bank for the funds so paid, but the personal representative's authority to collect such funds from the beneficiary or beneficiaries is not terminated.

The natural person establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the language set out below. The language may be on a signature card or in an explanation of the account that is set out in a separate document whose receipt is acknowledged by the person establishing the account:

"BANK (or name of institution)
PAYABLE ON DEATH ACCOUNT
G.S. 53C-6-7

I (or we) understand that by establishing a Payable on Death account under the provisions of North Carolina General Statute 53C-6-7 that:

1. During my (or our) lifetime I (or we), individually or jointly, may withdraw the money in the account.
2. By written direction to the bank (or name of institution) I (or we), individually or jointly, may change the beneficiary or beneficiaries.
3. Upon my (or our) death, the money remaining in the account will belong to the beneficiary or beneficiaries, and the money will not be inherited by my (or our) heirs or be controlled by will.

"

(b) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law, as appropriate.

(c) No addition to the accounts, nor any withdrawal, payment, or change of beneficiary, shall affect the nature of the account as Payable on Death accounts or affect the right of any owner to terminate the account.

(d) This section does not repeal or modify any provisions of law relating to estate taxes.
"§ 53C-6-8. Personal agency accounts.

(a) Any person may establish a personal agency account by written contract containing a statement that it is executed pursuant to the provisions of this section. A personal agency account may be any type of deposit account. The written contract shall name an agent who shall have authority to act on behalf of the depositor in the manner set out in this subsection. The agent shall have the authority to do the following:

- (1) Make, sign, or execute checks drawn on the account or otherwise make withdrawals from the account.
- (2) Endorse checks made payable to the principal for deposit only into the account.
- (3) Deposit cash or negotiable instruments, including instruments endorsed by the principal, into the account.

(b) A person establishing an account under this section shall sign a statement containing language substantially similar to the following in a conspicuous manner:

"BANK (or name of institution)
PERSONAL AGENCY ACCOUNT
G.S. 53C-6-8

The undersigned understands that by establishing a personal agency account under the provisions of North Carolina General Statute 53C-6-8, the agent named in the account may:

1. Sign checks drawn on the account.
2. Make deposits into the account.

The undersigned also understand that if the undersigned is a natural person, upon his or her death, the money remaining in the account will be controlled by his or her will or inherited by his or her heirs.

"

(c) An account created under the provisions of this section grants no ownership right or interest in the agent. Upon the death of the principal, there is no right of survivorship to the account, and the authority set out in subsection (a) of this section terminates.

(d) The written contract referred to in subsection (a) of this section shall provide that the principal may elect to extend the authority of the agent set out in subsection (a) of this section to act on behalf of the principal in regard to the account, notwithstanding the subsequent incapacity or mental incompetence of the principal. If the principal is a natural person and elects to extend the authority of the agent, then upon the subsequent incapacity or

mental incompetence of the principal, the agent may continue to exercise the authority, without the requirement of bond or of accounting to any court, until such time as the agent shall receive actual knowledge that the authority has been terminated. The duly qualified guardian of the estate of the incapacitated or incompetent acting pursuant to a durable power of attorney, as defined in G.S. 32A-8, which grants to the attorney-in-fact the authority in regard to the account that is granted to the agent by the written contract executed pursuant to the provisions of this section, shall have the power, upon notifying the agent and providing written notice to the bank where the personal agency account is established, to terminate the agent's authority to act on behalf of the principal with respect to the account. Upon termination of the agent's authority, the agent shall account to the guardian or attorney-in-fact for all actions of the agent in regard to the account during the incapacity or incompetence of the principal. If the principal is a natural person and does not elect to extend the authority of the agent, then upon the subsequent incapacity or mental incompetence of the principal, the authority of the agent set out in subsection (a) of this section terminates.

(e) When an account under this section has been established, all or part of the account or any interest or dividend may be paid on a check made, signed, or executed by the agent. In the absence of actual knowledge that the principal has died or that the agency created by the account has been terminated, the payment shall be valid and sufficient discharge to the bank for payment so made.

(f) A personal agency account shall have only one owner and one agent. The owner shall retain the authority to change the named agent on the personal agency account.

(g) Any personal agency account created under the provisions of G.S. 53-146.3, as it existed prior to the effective date of this section, shall for all purposes be governed by the provisions of this section after the effective date of this section, and any reference to G.S. 53-146.3 in any statement establishing the account shall be deemed a reference to this section.

"§ 53C-6-9. Accounts opened by adults for minors.

(a) One or more adults may open and maintain a custodial deposit account for or in the name of a minor and using the minor's taxpayer identification number. Unless otherwise provided in the agreement governing the account the following terms apply:

- (1) Beneficial ownership of the account vests exclusively in the minor. All interest credited to the account shall belong to the minor and shall be reported to the appropriate taxing authorities in the name of the minor using the minor's taxpayer identification number.
- (2) Except as otherwise provided, control of the account vests exclusively in the custodian whose name appears on the bank's records for the account. If there is more than one custodian named on the bank's account records, each may act independently. Any one or more of the custodians named on the bank's records may turn over control of the account to the minor at any time, either before or after the minor reaches the age of majority.
- (3) If the custodian has not already transferred control, then after the minor beneficiary reaches the age of majority, the beneficiary may instruct the bank to transfer control to the beneficiary and remove the named custodian.
- (4) If the custodian or, if more than one custodian is on the account, the last of the custodians to survive dies before the minor reaches the age of majority, the minor's parent or the minor's legal guardian may act as custodian or name another custodian on the account.

(b) This section shall not be deemed exclusive. Accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes, including Chapter 33A, the North Carolina Uniform Transfers to Minors Act, or the common law, as appropriate.

"§ 53C-6-10. Payment of balance of deceased person or person under disability to personal representative or guardian.

(a) A bank may pay any balance on deposit to the credit of any deceased individual to the duly qualified personal representative, collector, or public administrator of the decedent who is qualified as such under the laws of any state.

(b) A bank may pay any balance on deposit to the credit of any individual judicially declared incompetent or otherwise under a legal disability to the duly qualified personal representative, guardian, curator, conservator, or committee of the person declared incompetent or under disability who is qualified as such under the laws of any state.

(c) The presentation of a letter of qualification as personal representative, collector, public administrator, guardian, curator, conservator, or committee of the person issued or certified by the appointing court shall be conclusive proof of the jurisdiction of the court issuing the same and sufficient authority for the payment.

(d) Payment by a bank in good faith under the authority of this section discharges the liability of the bank to the extent of the payment.

"§ 53C-6-11. Powers of attorney; notice of revocation; payment after notice.

(a) Any bank may continue to recognize any act of an attorney-in-fact or other agent until the bank receives actual notice of the principal's death or a written notice of revocation signed by the principal who granted the authority or, in the case of a company, evidence satisfactory to the bank of the revocation. Payment by the bank to or at the direction of an attorney-in-fact or other agent before receipt of the notice is a total discharge of the bank's obligation as to the amount so paid.

(b) Notwithstanding that a bank has received written notice of revocation of the authority of an attorney-in-fact or other designated agent, a bank may, until 10 days after receipt of notice, pay any item made, drawn, accepted, or endorsed by the attorney-in-fact or agent prior to the revocation, provided that the item is otherwise properly payable.

"§ 53C-6-12. Account statements to be rendered annually or on request.

(a) Every bank shall render an account statement for each deposit account at least annually to the depositor; provided, however, the statements are not required for time deposits. Every bank shall render a statement of account for each deposit account, including time deposits upon receipt of an appropriate request reasonably made by a depositor.

(b) For purposes of this section, an account statement is deemed to have been "rendered" to a depositor as of the earlier of the date the statement is mailed to the depositor's address as shown on bank records and the date the account is posted to the bank's Web site in a manner and a form ensuring the statement to be readily available to the depositor; provided however, the bank and the depositor may agree that an account statement may be rendered by other means.

(c) Nothing in this section shall be construed to relieve the depositor from the duty of exercising due diligence in the review of an account statement rendered by the bank and of timely notification to the bank upon discovery of any error.

"§ 53C-6-13. Safe deposit boxes; unpaid rentals; procedure; escheats.

(a) If the rental due on a safe deposit box is 90 days or more past due, the lessor bank may send a notice by registered mail or certified mail, return receipt requested, to the last known address of the lessee or by another means agreed to in writing by the lessor bank and the lessee, stating that the safe deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within 30 days of the date of the mailing of the notice or the date such notice is given by the means otherwise previously agreed to in writing by the lessor bank and the lessee. If the rental is not paid within the stated period, the box may be opened in the presence of an officer of the bank and of a notary public who is not a director, officer, employee, or shareholder of the bank. The contents shall be sealed in a package by the notary public, who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the box, and a list of its contents. The certificate shall be included in the package.

and a copy of the certificate shall be sent by registered mail or certified mail, return receipt requested, to the last known address of the lessee or by the means otherwise previously agreed to in writing by the lessor bank and the lessee. The package then shall be placed in the general vaults of the bank at a rental not exceeding the rental previously charged for the box.

(b) If the contents of the safe deposit box have not been claimed within two years of the mailing or other permissible delivery of the copy of the certificate to the lessee, the bank may send a further notice to the last known address of the lessee by registered mail or certified mail, return receipt requested, to the last known address of the lessee or by a means otherwise previously agreed to in writing by the lessor bank and the lessee, stating that unless the accumulated charges are paid within 30 days of the date of the mailing of the notice, the contents of the box will be delivered to the State Treasurer as abandoned property under the provisions of Chapter 116B of the General Statutes.

(c) The bank shall submit to the State Treasurer a verified inventory of all of the contents of the safe deposit box upon delivery of the contents of the box or such part thereof as shall be required by the State Treasurer under G.S. 116B-55, but the bank may deduct from any cash of the lessee in the safe deposit box an amount equal to accumulated charges for rental and shall submit to the State Treasurer a verified statement of the charges and deduction. If there is no cash or insufficient cash to pay accumulated charges in the safe deposit box, the bank may submit to the State Treasurer a verified statement of accumulated charges or balance of the accumulated charges due, and the State Treasurer shall remit to the bank the charges or balance due, up to the value of the property in the safe deposit box delivered to the State Treasurer, less any costs or expenses of sale; but if the charges or balance due exceeds the value of the property, the State Treasurer shall remit only the value of the property, less costs or expenses of sale. Any accumulated charges for safe deposit box rental paid by the State Treasurer to the bank shall be deducted from the value of the property of the lessee delivered to the State Treasurer.

(d) Any property, including documents or writings of a private nature, that has little or no apparent financial value need not be sold but may be destroyed by the bank if the State Treasurer declines to receive the property under G.S. 116B-69(a).

(e) An explanation of the contractual provisions pertaining to default, together with reference to this section, shall be printed on every contract for rental of a safe deposit box.

"§ 53C-6-14. Reproduction and retention of records; admissibility of copies in evidence; disposition of originals; record production generally.

(a) Any bank may cause any or all records kept by it to be recorded, copied, or reproduced by any photographic, reproduction, electronic, or digital process or method, or by any other records retention technology approved by rule or order of the Commissioner, of a kind that is capable of accurately converting the records into tangible form within a reasonable time. Each such converted tangible form of record also shall be deemed a record.

(b) Any tangible form of a record shall be deemed for all purposes to be an original record and shall be admissible in evidence in all courts and administrative agencies in this State, if otherwise admissible, and the bank may destroy or otherwise dispose of the original form of the record; provided, however, that a bank shall retain either the originals or convertible form of its records for such period as may be required by law or by rule or order of the Commissioner. Any bank may dispose of any original or convertible form of a record that has been retained for the period prescribed by law or by rule or order of the Commissioner for its class.

(c) Originals and converted tangible forms of records shall not be held inadmissible in any court action or proceeding on the grounds that they lack certification, identification, or authentication and shall be received as evidence if otherwise admissible in any court or quasi-judicial proceeding if they have been identified and authenticated by the live testimony of a competent witness or if the records are accompanied by a certificate substantially in the following form:

"CERTIFICATE REGARDING BANK RECORDS

1. The accompanying documents are true and correct copies of the records of [name of bank]. The records were made in the regular course of business of the bank at or near the time of the acts, events, or conditions they reflect.
2. The undersigned is authorized to execute this certificate.
3. This certificate is issued pursuant to G.S. 53C-6-14.

I certify, under penalty of perjury under the laws of the State of North Carolina, that the foregoing statements are true and correct.

Date: _____

Signature

Print or type name

Title

[Notarize as required by law for an affidavit]"

(d) This section supplements and does not supersede G.S. 8-45.1.

"§ 53C-6-15. Establishment of branches.

(a) A bank may establish one or more branches in this State, whether de novo or by acquisition of existing branches of another depository institution, with the prior written approval of the Commissioner. The Commissioner's approval may be given or withheld, in the Commissioner's discretion, in accordance with the provisions of subsection (c) of this section.

(b) A bank may establish branches in another state, whether de novo or by acquisition of existing branches of another depository institution, in accordance with the provisions of applicable federal law and the laws of the other state, upon prior written approval of the Commissioner. The Commissioner's approval may be given or withheld in the Commissioner's discretion in accordance with the provisions of subsection (c) of this section.

(c) A bank seeking authority to establish a branch shall make application to the Commissioner in a form acceptable to the Commissioner. Not more than 30 days before nor less than 10 days after the filing of the application with the Commissioner, the applicant shall publish public notice of the filing of the application. The public notice shall contain all of the following:

- (1) A statement that the application has been filed with the Commissioner.
- (2) The physical address or location of the proposed branch, including street and city or town.
- (3) A statement that any interested person may make written comment on the application to the Commissioner and that comments received by the Commissioner within 14 days of the date of publication of the public notice shall be considered. The public notice shall provide the then current mailing address of the Commissioner.

(d) A bank may conduct any activities at a branch in another state authorized under this section that are permissible for a bank chartered by the other state where the branch is located, except to the extent the activities are expressly prohibited by the laws of this State or by any rule or order of the Commissioner applicable to the bank.

(e) Upon receipt of an application to establish a branch, the Commissioner shall conduct an examination of the pertinent facts and information and may request such additional information as the Commissioner deems necessary to make a decision on the application. In deciding whether to approve a branch application, the Commissioner shall take into account such factors as the financial condition and history of the applicant; the adequacy of its capital; the applicant's future earnings prospects; the character, competency, and experience of its management; the probable impact of the branch on the condition of the applicant bank and existing depository institutions in the community to be served; and the convenience and needs of the community the proposed branch is to serve.

"§ 53C-6-16. Change of location of a branch or principal office.

(a) A bank may change the location of its principal office or a branch with the prior written approval of the Commissioner. A request to relocate the principal office or a branch of a bank shall be made in a form acceptable to the Commissioner and shall include information regarding the reason for the proposed relocation, the distance and direction of the move, and such other information as the Commissioner may require in order to reach a decision in the matter.

(b) Not more than 30 days before nor less than 10 days after filing a request to relocate the principal office or a branch of a bank, the applicant shall publish public notice of the request. The public notice shall contain all of the following:

- (1) A statement that the request has been filed with the Commissioner.
- (2) The physical address of the principal office or branch to be relocated and the physical address of the proposed new location.
- (3) A statement that any interested person may make written comment on the request to the Commissioner and that comments received by the Commissioner within 14 days of the date of publication of the public notice will be considered. The statement shall provide the then current mailing address of the Commissioner.

(c) The Commissioner shall approve a request to relocate the principal office or a branch of a bank if the relocation is to a site within the same vicinity as the original location, or does not result in a material change in the primary service area of the principal office or branch, or is considered important to the economic viability of the bank or the branch, or is otherwise found not to be inconsistent with the public need and convenience.

"§ 53C-6-17. Branch closings.

A bank may close a branch upon providing written notice to the Commissioner and the customers of the branch at least 90 days prior to the proposed closing. The notice shall include the date the branch will close and posting, in a conspicuous manner on the branch premises for a period of 30 days prior to the proposed closing date, a notice of its intent to close the branch. The consolidation of two or more branches into a single location in the same vicinity shall not be considered a closure subject to the 90-day and 30-day notice requirements of this section. To be considered a consolidation, the bank shall request consolidation treatment from the Commissioner, who shall decide, in his or her discretion, whether the branches to be consolidated are considered to be in the same vicinity, with due consideration to the distance between the branches and the nature of the market in which the branches are situated.

"§ 53C-6-18. Non-branch bank business offices.

(a) A bank may establish one or more non-branch bank business offices as defined by G.S. 53C-1-4(46).

- (1) If a proposed non-branch bank business office will offer a product, service, or other type of business not previously engaged in by the bank, the bank shall provide the Commissioner with written notification of the intent to open the office. The notification shall include the proposed location of the office and a description of the business to be conducted at the office. If the Commissioner does not request additional information or object to its establishment within 10 days of the date of receipt of the notification, the non-branch bank business office shall be deemed approved. In deciding whether to object to the establishment of a non-branch bank business office, the Commissioner shall consider, without limitation, whether the business proposed to be conducted at the non-branch bank business office is permissible for a bank, the costs of its establishment and ongoing operation and the impact of the costs on the bank's capital and profitability, and the ability of the bank's management to conduct the proposed business.

(2) If a proposed non-branch bank business office will offer only products, services, or other types of business already engaged in by the bank, the bank shall provide the Commissioner with written notification of the intent to open the office.

(b) An out-of-state bank may establish and operate a non-branch bank business office in this State upon written notice to the Commissioner.

(c) A bank or an out-of-state bank may close a non-branch bank business office at any time with notice to the Commissioner.

(d) No deposits may be taken at a non-branch bank business office.

"§ 53C-6-19. Operations; suspension.

(a) A bank, any of its branches, and any of its non-branch bank business offices may operate on such days and during such hours, and may observe such holidays, as the bank's board of directors shall designate.

(b) Whenever the Commissioner determines that an emergency exists or is pending in this State or any part thereof, the Commissioner may authorize banks operating in the affected area or areas to suspend any or all of their operations in such area or areas for such period or periods as the Commissioner establishes. An emergency is any condition or occurrence that may interfere with a bank's operations or poses an existing or imminent threat to the safety or security of persons or property, or both.

(c) In the event that an emergency exists or is pending in this State or any part thereof and a bank operating in the affected area or areas is unable to communicate the existence or pendency of the emergency to the OCOB, an officer of the bank may suspend any or all of the bank's operations in the affected area or areas without the prior approval of the Commissioner. The bank shall give notice of such closing to the Commissioner as soon as practicable.

"Article 7.

"Control Transactions; Combinations; Conversions.

"Part 1. Change in Control.

"§ 53C-7-101. Control transactions.

(a) Except as otherwise expressly permitted by this section, a person shall not engage in a control transaction, as defined by G.S. 53C-1-4(22), involving a bank without the prior approval of the Commissioner. A person may contract to engage in a control transaction with the consummation of such control transaction being subject to receipt of the approval of the Commissioner. Each bank shall report to the Commissioner any changes in its directors, president, chief executive officer, chief financial officer, chief loan officer, or chief credit officer by the close of the second day on which the holding company is open for business following such change.

(b) The Commissioner may require a person who is obligated to file an application under this Part to appoint an agent resident in this State for service of process upon the filing of such notice or as a condition to the acceptance of such application for review. The application for approval shall be in a form required by the Commissioner and shall be accompanied by such fee as may be required by rule.

(c) The following transactions shall not constitute a control transaction requiring the prior approval of the Commissioner:

(1) The acquisition of control over voting securities in connection with securing, collecting, or satisfying a debt previously contracted for in good faith and not for the purpose of acquiring control of the bank, if the acquiring person files a notice with the Commissioner, in the form required by the Commissioner, describing such transaction at least 10 days before the acquiring person first votes or directs the voting of the voting securities.

(2) The acquisition of control over voting securities by a person who has previously engaged in a control transaction with respect to the bank after receiving the approval of the Commissioner under this Article, which approval permits the acquisition of control over additional voting securities.

or any person who is an affiliate of the person previously engaging in the approved control transaction with the permission and who is identified in the application submitted for the approval, if the acquiring person files a notice with the Commissioner, in the form required by the Commissioner, describing the transaction at least 10 days before the acquiring person or affiliate thereof first votes or directs the voting of the voting securities.

- (3) An acquisition of control over voting securities by operation of law, will, or intestate succession, if the acquiring person files a notice with the Commissioner, in the form required by the Commissioner, describing the acquisition or transfer at least 10 days before the acquiring person first votes or directs the voting of the voting securities.
- (4) Bona fide gifts.
- (5) A transaction exempted by rules, orders, or declaratory rulings of the Commissioner issued because approval of such a transaction is not necessary to achieve the objectives of this Chapter.
- (6) An acquisition of control over voting securities in a transaction subject to approval under section 3 of the Bank Holding Company Act, as amended (12 U.S.C. § 1842).

(d) Upon receipt of a notice described in subsection (c), the Commissioner may, before the 10th day following the receipt, notify the acquiring person of the Commissioner's objection to the exercise of control over the voting securities or may require the acquiring party to submit further information before exercising control over the voting securities. An acquiring person receiving a notice of objection shall be required to submit an application for approval of a control transaction. An acquiring person receiving a notice to submit further information may be required to provide any information that would be included in an application for approval of a control transaction. In the event such an acquiring person is comprised of a group of persons, the Commissioner may require each member of the group to submit relevant information.

(e) All voting securities over which control has been acquired by an acquiring person shall not be voted on any matter submitted to a vote of the holders of the outstanding voting securities of the bank and shall be deemed authorized but unissued for purposes of determining the presence of a quorum of holders of voting securities until such time as follows:

- (1) The Commissioner has approved an application for approval of a control transaction with respect to the voting securities.
- (2) The transaction is one listed in subsection (c) of this section that does not require the filing of a notice with the Commissioner.
- (3) The transaction is one listed in subsection (c) of this section that requires a notice to be filed with the Commissioner and the Commissioner has not issued an objection to the notice and any requirement of the Commissioner for the filing of further information has been determined by the Commissioner to have been satisfied.

"§ 53C-7-102. Application regarding a control transaction.

(a) A person seeking approval of a control transaction involving a bank under this Article shall file the following with the Commissioner:

- (1) An application in the form prescribed by the Commissioner.
- (2) All filing fees required by a rule of the Commissioner.
- (3) Such information as is required by a rule of the Commissioner or as is deemed by the Commissioner to achieve the objectives of this Chapter.

(b) In the event a person submitting an application is a group of persons, the Commissioner may require each member of the group to submit information relevant to the application.

(c) Notwithstanding any laws to the contrary, information about the character, competence, or experience of an acquiring person or its proposed management personnel or affiliates shall be deemed a record of the Commissioner and subject to G.S. 53C-2-8.

"§ 53C-7-103. Public notice.

A person filing an application for approval of a control application shall publish a public notice of the filing of the application not more than 30 days before nor more than 10 days after the filing of the application with the Commissioner. The public notice shall contain the following:

- (1) A statement that the application has been filed with the Commissioner.
- (2) The name of the applicable bank and the address of its principal office.
- (3) A statement that any interested person may make written comment on the proposed control transaction and that comments received by the Commissioner within 14 days of the date of the publication of the public notice shall be considered. The public notice shall provide the current mailing address of the Commissioner.

"§ 53C-7-104. Actions on control transaction applications.

(a) The Commissioner shall examine the proposed control transaction, including the character, competence, and experience of the acquiring person and its proposed management personnel, to determine whether the interests of the customers and communities served by the bank would be adversely affected by the proposed control transaction. Not later than the 60th day following receipt of a completed application for approval of a control transaction, unless extraordinary circumstances require a longer period of review, the Commissioner shall approve or deny the application.

(b) The Commissioner may deny an application for approval of a control transaction for any of the following reasons:

- (1) The financial condition of the person seeking approval of a control transaction could jeopardize the financial stability of the bank or the financial interests of its customers.
- (2) An examination of the character, competence, and experience of any acquiring person or of any of the proposed management personnel shows that it would not be in the interest of the depositors of the bank, or in the interest of the public, to permit the person to control the bank.
- (3) The plans or proposals of the person seeking approval with respect to exercising control over the bank would not be in the best interests of the bank's customers.
- (4) Upon the effective date of such proposed control transaction, the bank would not be solvent, have inadequate capital, or not be in compliance with this Chapter or rules of the Commissioner.
- (5) The application for approval is incomplete.
- (6) If the acquiring person solicits votes for the approval of or consents to the control transaction from the holders of the voting securities of the bank, adequate and complete disclosures of all material information about the proposed control transaction, together with a prominent statement that neither the control transaction nor any solicitation of the holders' votes or consents have been approved by the Commissioner and that any representation to the contrary is a criminal offense, have not been made to the holders.

(c) If an application filed under this Part is approved by the Commissioner, the control transaction may become effective. All conditions to approval set forth in the order of the Commissioner shall be enforceable against the person, and each member of a group of persons, receiving the approval.

"§ 53C-7-105. Appeal.

Any order of the Commissioner denying an application for approval of a control transaction may be appealed to the Commission by the person filing the application denied, as provided in G.S. 53C-2-6.

"Part 2. Combinations.**"§ 53C-7-201. Combination authority.**

With the approval of the Commissioner, a bank may combine with one or more depository institutions or non-depository institutions, provided that the bank is the surviving entity in any combination with a non-depository institution. The application for approval shall be in the form required by the Commissioner and shall be accompanied by a fee as set forth by rule.

"§ 53C-7-202. Combination application and investigation.

(a) A bank seeking approval of a combination shall file with the Commissioner an application for approval, copies of the agreement under which the bank proposes to effect the combination, and such additional information as the Commissioner shall require by rule or as is required by the Commissioner in connection with the application in order to achieve the objectives of this Chapter.

(b) A bank filing an application for approval of a combination shall publish a public notice of the filing of the application not more than 30 days before nor more than 10 days after the filing of the application with the Commissioner. The public notice shall contain the following:

- (1) A statement that the application has been filed with the Commissioner.
- (2) The names of the parties to the proposed combination and the addresses of their principal offices.
- (3) A statement that any interested person may make written comment on the proposed combination and that comments received by the Commissioner within 14 days of the date of the publication of the public notice shall be considered. The public notice shall contain the current mailing address of the Commissioner.

(c) The Commissioner shall examine the proposed combination, including the character, competency, and experience of the proposed directors and executive officers of the surviving party of the combination, to determine whether the interests of the customers of and communities served by the parties to the combination would be adversely affected by the proposed combination.

(d) Notwithstanding any laws to the contrary, information about the character, competence, or experience of the directors and executive officers of the parties to a combination received by the Commissioner shall be subject to G.S. 53C-2-7(b).

"§ 53C-7-203. Decision on application.

Based on the application and the Commissioner's examination, the Commissioner shall enter an order approving or denying approval of the proposed combination not later than the 60th day following the date the Commissioner notifies the parties that the application is complete, unless extraordinary circumstances require a longer period of review.

"§ 53C-7-204. Interim banks.

The Commissioner may approve an application to organize an interim bank solely for the purpose of effecting a combination under this Article. No interim bank shall transact any business except as is incidental and necessary to its organization and the combination. The Commissioner may set forth in the order approving the organization such additional conditions with respect to the interim bank as the Commissioner deems necessary.

"§ 53C-7-205. Fiduciary powers and liabilities of North Carolina financial institutions combining or transferring assets and liabilities.

Whenever any North Carolina financial institution or federally chartered institution doing business in this State shall combine with or shall sell to and transfer its assets and liabilities to any other bank, trust institution, savings institution, or other company, as provided by the laws of this State or the United States, all the then existing fiduciary rights, powers, duties, and liabilities of the combining transferring institution, including the rights, powers, duties, and liabilities as executor, administrator, guardian, trustee, and/or any other fiduciary capacity, whether under appointment by order of court, will, deed, or other instrument, shall, upon the effective date of the combination or sale and transfer, vest in, devolve upon, and thereafter be

performed by the surviving or transferee company, and such latter institution shall be deemed substituted for and shall have all the rights and powers of the transferring institution.

"§ 53C-7-206. Combination with federally chartered institution.

A combination by a bank with a federally chartered institution in which the federally chartered institution will be the surviving party shall be subject to approval by the chartering authority of the federally chartered institution in accordance with the laws of the United States.

"§ 53C-7-207. Combination with a subsidiary.

(a) With the approval of the Commissioner, a bank may do any one the following:

- (1) Combine with a subsidiary, so long as a bank is the resulting entity of the combination.
- (2) Combine a subsidiary with another company, if a subsidiary is the resulting entity.
- (3) Combine two or more subsidiaries of two or more banks under common control of the same holding company.

The approval of the Commissioner is not required for a combination of a subsidiary and another company when a subsidiary is not the resulting entity, which shall be effected in accordance with organizational law applicable to each, or for a combination of two or more subsidiaries of the same bank.

(b) The bank seeking approval of the combination shall file with the Commissioner an application for approval and such additional information as the Commissioner shall require by rule or as is required by the Commissioner in connection with the application in order to achieve the objectives of this Chapter. The bank shall pay to the Commissioner a fee as set forth by rule.

(c) The Commissioner shall examine the proposed combination to determine whether the customers and communities served by the bank would be adversely affected by the combination, the combination would cause the bank to not be solvent, have inadequate capital, or not be in compliance with this Chapter or the rules of the Commissioner, or the combination would present other risks to the safe and sound operation of the bank deemed unacceptable by the Commissioner.

"§ 53C-7-208. Fiduciary powers and liabilities of combining banks.

Whenever any bank shall combine with another depository institution and the other depository institution shall be the resulting institution, all the then existing fiduciary rights, powers, duties, and liabilities of the combining bank, including its rights, powers, duties, and liabilities as a fiduciary, shall, upon the effective date of the combination, vest in the resulting depository institution, and the resulting depository institution shall be deemed substituted for the combining bank for all fiduciary purposes.

"§ 53C-7-209. Appeal.

Any order of the Commissioner denying an application for approval of a combination may be appealed to the Commission by a party to the combination as provided in G.S. 53C-2-6.

"Part 3. Charter Conversion.

"§ 53C-7-301. Conversion to a North Carolina bank charter.

(a) Any depository institution that is not a bank may apply to the Commissioner for permission to convert into a bank and for certification of related amendments to its organizational documents necessary to effect the conversion. The application for approval shall be in the form required by the Commissioner and shall be accompanied by a fee as set forth by rule.

(b) A plan of conversion shall be submitted as a part of the application filed with the Commissioner. The Commissioner may require amendment of the plan.

(c) The Commissioner shall approve the plan of conversion, as amended if applicable, if upon examination the Commissioner finds the following:

- (1) The resulting bank will commence operations in a safe, sound, and prudent manner with adequate capital, liquidity, reserves, asset composition, and earnings prospects.

- (2) The directors and officers of the converting institution are qualified by character, competency, and experience to control and operate the resulting bank in a legal and proper manner.
- (3) The interests of the converting institution's customers, creditors, and shareholders will not be materially and adversely affected by the proposed conversion.
- (4) The plan of conversion is not in violation of the converting institution's applicable organizational law.
- (5) Adequate written disclosure of the material terms of the plan of conversion and other relevant material information has been or will be made to the converting institution's equity ownership interest holders as required by the converting institution's organizational law, including a statement in any such written disclosure that any materials used to solicit the votes of the holders have not been approved by the Commission or the Commissioner and that any representation to the contrary is a criminal offense.

(d) Following approval of the plan of conversion, the Commissioner shall supervise and monitor the conversion process in order to determine compliance by the converting institution with the plan of conversion and applicable law.

(e) The Commissioner shall authorize by order the consummation of the conversion, issue a charter, and permit the converting institution to file with the Secretary of State and other public officials such documents as are necessary to effect the conversion when the Commissioner determines the conversion process complied with the organizational law applicable to the converting institution and the plan of conversion was approved, if required by applicable organizational law, by such vote of the converting institution's equity ownership interest holders as is required under the organizational law.

(f) The Commissioner may provide in the order authorizing the consummation of conversion for the resulting bank to do the following:

- (1) Wind up any activities legally engaged in by the converting institution at the time of conversion but not permitted to banks.
- (2) Return any assets and deposit liabilities legally held by the converting institution at the time of the conversion but not permitted to be held by banks.

The length, terms, and conditions of the transitional periods described in this subsection shall be subject to the discretion of the Commissioner.

(g) Upon the effective date of the conversion, the converting institution shall continue in existence as a bank, and all rights, liabilities, and obligations of whatever kind of the converting institution shall continue and remain in its new form of organization. Except as may be authorized by the Commissioner pursuant to subsection (f) of this section, the bank shall have only those rights, powers, and duties authorized for or imposed upon banks by the laws of this State and the United States. All actions and proceedings to which the converting institution was party prior to conversion shall be unaffected by the conversion and shall proceed as if the conversion had not been effected.

"§ 53C-7-302. Appeal.

Any order of the Commissioner denying an application for approval of a conversion to a bank may be appealed to the Commission by the party filing the application as provided in G.S. 53C-2-6.

"§ 53C-7-303. Conversion by North Carolina bank.

(a) A bank may convert to another form of depository institution under the laws of this State, of another state, or the United States in accordance with applicable law.

(b) Upon the effective date of the conversion, the depository institution shall notify the Commissioner of the effective date and file with the Commissioner a copy of its authorization to operate as a depository institution certified by the applicable federal regulator or financial institution regulator.

(c) Upon the effective date of the conversion, the resulting depository institution shall cease to be a bank.

(d) Upon the effective date of the conversion, all rights, liabilities, and obligations of whatever kind of the bank shall continue and remain in its new form of organization as a depository institution organized under the laws of this State, another state, or the United States. All actions and proceedings to which the bank was party prior to conversion shall be unaffected by the conversion and shall proceed as if the conversion had not been effected.

"Article 8.

"Bank Supervision.

"§ 53C-8-1. Commissioner has authority to supervise banks.

(a) Every bank shall be under the supervision of the Commissioner. It shall be the Commissioner's duty to enforce the banking laws through the employees and agents of the OCOB. All banks shall conduct their business in a manner consistent with the banking laws.

(b) The Commissioner may enter into written agreements, cease and desist order stipulations, cease and desist orders, consent orders, and similar arrangements with banks and their holding companies, or either of them; may request resolutions be approved by boards of directors of banks and their holding companies, or either of them; and may take other similar corrective actions.

(c) Upon written request, the Commissioner may, notwithstanding any other provision of law to the contrary, issue letters of interpretation, advisory opinions, or written guidance on any laws under the Commissioner's jurisdiction, provided that the interpretations, opinions, and guidance shall not have the force and effect of rules of law.

"§ 53C-8-2. Assessments and fees.

Banks shall pay the following assessments and fees into the OCOB within 10 days after receipt of an invoice:

- (1) Annual assessments. – Each bank shall pay a cumulative assessment based on its total assets as shown on its report of condition made to the Commissioner as of December 31 each year or the date most nearly approximating the same, not to exceed the amount determined by applying the following schedule:
 - a. On the first fifty million dollars (\$50,000,000) of assets, or fraction thereof, ten thousand dollars (\$10,000).
 - b. On assets greater than fifty million dollars (\$50,000,000) but not more than two hundred fifty million dollars (\$250,000,000), fourteen dollars (\$14.00) per hundred thousand dollars (\$100,000), or fraction thereof.
 - c. On assets greater than two hundred fifty million dollars (\$250,000,000), but not more than five hundred million dollars (\$500,000,000), eleven dollars (\$11.00) per hundred thousand dollars (\$100,000), or fraction thereof.
 - d. On assets greater than five hundred million dollars (\$500,000,000), but not more than one billion dollars (\$1,000,000,000), seven dollars (\$7.00) per hundred thousand dollars (\$100,000), or fraction thereof.
 - e. On assets greater than one billion dollars (\$1,000,000,000), but not more than ten billion dollars (\$10,000,000,000), four dollars (\$4.00) per hundred thousand dollars (\$100,000), or fraction thereof.
 - f. On assets greater than ten billion dollars (\$10,000,000,000), two dollars (\$2.00) per hundred thousand dollars (\$100,000), or fraction thereof.
- (2) Assessments on trust assets. – Each bank shall pay an assessment on trust assets held by it in the amount of one dollar (\$1.00) per hundred thousand dollars (\$100,000) of trust assets, or fraction thereof, except that banks are not required to pay assessments on real estate held as trust assets.

- (3) Special assessments. – If the Commissioner determines that the financial condition or manner of operation of a bank warrants further examination or an increased level of supervision, or in the event of a combination or conversion, the Commissioner may charge, and the institutions shall pay, an assessment equal to the reasonable cost of further examination, increased level of supervision, or supervision with regard to the combination or conversion. The Commissioner's determination of the cost of further examination shall be, in the absence of manifest error, dispositive of the issue of reasonableness.
- (4) In the first half of each calendar year, the Commission shall review the estimated cost of maintaining each division of the OCOB for the next fiscal year. If the estimated assessments provided for under this Chapter for any division shall exceed the estimated cost of maintaining that division for the next fiscal year, then the Commission may reduce by a uniform percentage any assessments provided for in this Chapter for that division. If the estimated assessments provided for in this Chapter for any division shall be less than the estimated cost of maintaining that division for the next fiscal year, then the Commission may increase by a uniform percentage any assessments provided for in this Chapter for that division to an amount that will increase the amount of assessments to be collected to an amount at least equal to the estimated cost of maintaining that division of the OCOB for the next fiscal year.

"§ 53C-8-3. Reports required of banks.

(a) Each bank shall file the following with the Commissioner, at such times, on such forms, and in such formats as the Commissioner may require:

- (1) Annual reports of conditions.
- (2) Periodic reports for interim periods within a year, not less than monthly in any case.

(b) In addition to the reports filed pursuant to subsection (a) of this section, each bank shall provide to the Commissioner copies of all applications and reports of condition filed by it under applicable federal law contemporaneously with the filing of such application and reports by the bank with its primary federal regulator.

(c) Nothing in this section shall be interpreted to limit the authority of the Commissioner to request and obtain other information that the Commissioner may deem necessary to discharge the duties of the Commissioner under this Chapter.

"§ 53C-8-4. Examination by Commissioner.

(a) The Commissioner may examine everything relating to the business of a bank or its holding company, and may appoint examiners to make such examination. The examiners shall file with the Commissioner a full report of the findings resulting from the examination, including any violation of law or any unauthorized or unsafe practices of the bank or the holding company disclosed by the examination.

(b) Examinations under subsection (a) of this section shall be conducted pursuant to practices and procedures established by the OCOB, provided the Commissioner may take into consideration the guidelines and requirements for such activity of the primary federal supervisor of the bank or holding company.

(c) The Commissioner shall furnish a copy of the report of examination to the bank or the holding company examined and may, upon request, furnish a copy of the report to the primary federal regulator of the bank or its holding company and to the FDIC if not the bank's primary federal regulator.

"§ 53C-8-5. Examination of affiliates.

The Commissioner, at his or her discretion, may examine the affiliates of a bank to the extent it is necessary to safeguard the interest of depositors and creditors of the bank and of the general public, and to enforce the provisions of this Chapter. The Commissioner may conduct

the examination in conjunction with any examination of the bank or an affiliate thereof conducted by any other state or federal regulatory authority.

"§ 53C-8-6. Access to books and records; right to issue subpoenas, administer oaths, and examine witnesses.

(a) The Commissioner and the Commissioner's examiners and agents:

- (1) Shall have free access to all books and records of a bank, its holding company, and their affiliates that relate to the business of the bank or the holding company, and the books and records kept by an officer, agent, or employee of the bank or holding company relating to or upon which any record is kept.
- (2) May subpoena witnesses and administer oaths or affirmations in the examination of any director, officer, agent, or employee of the bank, its holding company, or their affiliates or of any other person in relation to affairs, transactions, and conditions of the bank, its holding company, or their affiliates.
- (3) May require the production of the records, books, papers, contracts, and other documents of a bank, its holding company, and their affiliates.
- (4) May order that improper entries be corrected on the books and records of a bank, its holding company, and the bank's affiliates.

(b) The Commissioner may issue subpoenas duces tecum.

(c) If a person fails to comply with a subpoena so issued or a party or witness refuses to testify on any matters, a court of competent jurisdiction, on the application of the Commissioner, may compel compliance by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court.

"§ 53C-8-7. Examiner making false report.

If any bank examiner shall knowingly and willfully make any false or fraudulent report of the condition of any bank that the examiner has examined with the intent to aid or abet the bank or its affiliates in committing violations of any provision of this Chapter, or if any examiner shall keep or accept any bribe or gratuity given for the purpose of inducing the examiner not to file any report of examination of any bank, or if any examiner shall neglect to make an examination of any bank by reason of having received or accepted any bribe or gratuity, the examiner shall be guilty of a Class H felony.

"§ 53C-8-8. Examiner disclosing confidential information.

If any examiner or other employee of the OCOB fails to keep secret the facts and information obtained in the course of an examination of a bank except as permitted or required by this Chapter, the examiner shall be guilty of a Class 1 misdemeanor.

"§ 53C-8-9. Loans or gratuities forbidden.

(a) No bank, or any officer, director, employee, or affiliate thereof, shall make an extension of credit or grant any gratuity to the Commissioner, any deputy commissioner, or any bank examiner. Any person violating this provision shall be guilty of a Class 1 misdemeanor and may be fined a sum equal to the amount of the extension made or the gratuity given. If the Commissioner, any deputy commissioner, or any bank examiner accepts an extension of credit or gratuity from any bank, or from any officer, director, employee, or affiliate thereof, that individual shall be guilty of a Class 1 misdemeanor and may be fined a sum equal to the extension of credit made or the gratuity given.

(b) Notwithstanding the provisions of subsection (a) of this section, the Commissioner may exempt from the application of subsection (a) any deputy commissioner or any bank examiner with respect to any extension of credit existing upon the hiring of the deputy commissioner or bank examiner by the OCOB and any extension of the term or renewal of such extension of credit made thereafter, so long as the extension of term or renewal has terms and conditions generally available to customers of the applicable bank having generally the same creditworthiness as the deputy commissioner or bank examiner.

"§ 53C-8-10. Willfully and maliciously making derogatory reports.

Any person who shall willfully and maliciously make, circulate, transmit, or otherwise communicate any statement, rumor, or suggestion to one or more other persons that is directly or by inference false and derogatory to the financial condition, or affects the solvency or financial standing, of any bank, or who shall counsel, aid, procure, or induce another to make, circulate, transmit, or otherwise communicate any such statement or rumor, shall be guilty of a Class 1 misdemeanor.

"§ 53C-8-11. Misapplication, embezzlement of funds.

(a) Any person who, with intent to defraud or injure a bank or any other person or with intent to deceive an officer of the bank or an employee of the OCOB appointed to examine the affairs of the bank, commits any of the following acts shall be guilty of a felony:

- (1) Embezzles, converts, or misapplies any of the money, funds, credit, or property of the bank, whether owned by it or held in trust.
- (2) Issues or puts forth a certificate of deposit; draws an order or bill of exchange; makes an acceptance; assigns a note, bond, draft, bill of exchange, mortgage, judgment, or decree; or fictitiously borrows or solicits, obtains, or receives money for a bank not in good faith.
- (3) Makes or permits to be made a false entry in a record of a bank, or conceals or permits to be concealed, by any means or manner, the true and correct entries in a record of a bank.
- (4) Knowingly makes an extension of credit, or permits an extension of credit, by a bank to any insolvent person or to a person who has ceased to exist, or that never had any existence, or upon collateral consisting of stocks or bonds of an insolvent or nonexistent person.
- (5) Makes or publishes, or knowingly permits to be made or published, a false report, statement, or certificate as to the true financial condition of a bank.

(b) If an offense committed under this section involves money, funds, credit, or property with a value of one hundred thousand dollars (\$100,000) or more, it is a Class C felony. If an offense committed under this section involves money, funds, credit, or property with a value of less than one hundred thousand dollars (\$100,000), it is a Class H felony.

"§ 53C-8-12. Enforcement of the banking laws.

(a) When the Commissioner believes that a violation of the banking laws has occurred or is continuing, the Commissioner may order an examination or investigation of the facts and circumstances relating to the suspected violation.

(b) Every bank failing to make and transmit any report that the Commissioner is authorized to require by this Chapter, and in and according to the form prescribed by the Commissioner, within 10 business days after the receipt of a request or requisition therefor, or within the extension of time granted by the Commissioner, shall be notified by the Commissioner, and if the failure continues for five business days after the receipt of the notice, the delinquent bank shall be subject to a penalty of up to one thousand dollars (\$1,000). The penalty provided by this section shall be recovered in a civil action in any court of competent jurisdiction, and it shall be the duty of the Attorney General to prosecute all such actions.

(c) In addition to any other powers conferred by this Chapter, the Commissioner shall have the power to do the following:

- (1) Order any bank, trust company, or subsidiary thereof, or any director, officer, or employee, or any other person the Commissioner is authorized to regulate, to cease and desist violating any provision of this Chapter or any lawful rule issued thereunder.
- (2) Order any bank, trust company, or subsidiary thereof, or any director, officer, or employee, or any other person the Commissioner is authorized to regulate, to cease and desist from a course of conduct that is unsafe or unsound and that is likely to cause insolvency or dissipation of assets or is

likely to jeopardize or otherwise seriously prejudice the interests of a depositor.

(d) Consistent with Article 3A of Chapter 150B of the General Statutes, notice and opportunity for hearing shall be provided before any of the actions authorized by this section shall be undertaken by the Commissioner. In cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action but shall promptly afford a subsequent hearing upon application to rescind the action taken.

(e) The Commissioner shall have the power to subpoena witnesses, compel their attendance, require the production of evidence, administer oaths, and examine any person under oath in connection with any subject related to a duty imposed or a power vested in the Commissioner.

(f) The Commissioner may impose a civil money penalty of not more than one thousand dollars (\$1,000) for each violation by any bank, trust company, or subsidiary thereof, or any director, officer, or employee, or any other person the Commissioner is authorized to regulate, of an order issued under subdivision (1) of subsection (c) of this section. The Commissioner may impose a civil money penalty of not more than five hundred dollars (\$500.00) per day for each day that a bank, trust company, or subsidiary thereof, or any director, officer, or employee, or any other person the Commissioner is authorized to regulate, violates a cease and desist order issued under subdivision (2) of subsection (c) of this section. The proceeds of civil money penalties imposed pursuant to this subsection, net of documented expenses of examination and enforcement, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(g) Administrative orders issued by the Commissioner and civil money penalties imposed for violation of such orders shall be subject to review by the Commission, which shall have power to amend, modify, or disapprove the same at any regular or special meeting.

(h) Notwithstanding any penalty imposed by the Commissioner, the Commission may, after notice of and opportunity for hearing, impose, enter judgment for, and enforce, by appropriate process, a penalty of not more than ten thousand dollars (\$10,000) against any bank, trust company, or subsidiary thereof, or against any of its directors, officers, or employees, or any other person the Commissioner is authorized to regulate, for violating any lawful order of the Commission or Commissioner. The proceeds of civil money penalties imposed pursuant to this subsection, net of documented expenses of examination and enforcement, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(i) If the Commissioner believes that a violation of a criminal statute has occurred, the Commissioner may refer the matter to the appropriate prosecutorial agency.

"§ 53C-8-13. Immediate action orders.

(a) In the event that the Commissioner determines that a bank has inadequate capital or insufficient capital or determines that immediate action is necessary to cause a bank to conduct its business in a safe and sound manner or to cause a bank or any of its directors, officers, or employees to cease from an act or course of conduct that threatens, or is reasonably probable of threatening, the financial integrity of the bank, the commissioner may order, as applicable, the bank to take such corrective action as the Commissioner deems necessary or may order the bank, director, officer, or employee to immediately cease such conduct, act, or course of conduct and to refrain therefrom in the future.

(b) Any order made under this section shall be effective upon issuance, provided, however, that the Commissioner shall promptly afford a subsequent hearing upon the order as provided in G.S. 53C-2-6.

"§ 53C-8-14. Supervisory control.

(a) Whenever the Commissioner determines that a bank has insufficient capital and is conducting its business in an unsafe or unsound manner or in any fashion that threatens the financial integrity of the bank, the Commissioner may serve a notice of charges on the bank, requiring it to show cause why it should not be placed under supervisory control. The notice of

charges shall specify the grounds for supervisory control and set the time and place for a hearing. A hearing before the Commissioner shall be held no earlier than seven days and no later than 15 days after issuance of the notice of charges.

(b) If, after the hearing provided in subsection (a) of this section, the Commissioner determines that supervisory control of the bank is necessary to protect the bank's customers, creditors, or the general public, the Commissioner shall issue an order taking supervisory control of the bank. The board of directors of the bank in office on the date of the issuance of the order may appeal the order of the Commissioner to the Commission pursuant to G.S. 53C-2-6 no later than 10 days after the date of the issuance of the order.

(c) The Commissioner may appoint an agent to supervise and monitor the operations of the bank during the period of supervisory control. During the period of supervisory control, the bank shall act in accordance with any instructions and directions as may be given by the Commissioner, directly or through the agent, and shall not act or fail to act except when to do so would violate an outstanding order of its federal bank supervisory agent or the FDIC if the FDIC is not its primary federal regulator.

(d) Within 180 days of the date of the order taking supervisory control, the Commissioner shall issue an order approving a plan for the termination of supervisory control on the 30th day following the issuance of the order. The plan may provide for the following:

- (1) The issuance by the bank of debt instruments or shares.
- (2) The appointment or removal of one or more officers and/or one or more directors.
- (3) The reorganization or combination of the bank.
- (4) A control transaction with respect to the bank.
- (5) The dissolution and liquidation of the bank.

(e) The reasonable costs of the Commissioner under this section shall be paid by the bank. The Commissioner's determination of the costs shall be, in the absence of manifest error, dispositive of the issue of reasonableness.

"§ 53C-8-15. Removal of directors, officers, and employees.

(a) If the Commissioner determines that a director, officer, or employee of a bank has participated in or consented to any violation of this Chapter or an order of the Commissioner, or has engaged in any unsafe or unsound business practice in the operation of the bank, or has been dishonest, incompetent, or reckless in the management of the affairs of the bank, or has persistently violated the laws of this State, or repeatedly violated or failed to comply with any of the bank's organizational documents, and that as a result, a situation exists requiring prompt corrective action in order to protect the bank, its customers, or the public, the Commissioner may issue an order temporarily removing the director, officer, or employee pending a hearing that shall occur not less 10 days after removal. The order shall state that it is a "Temporary Order of Removal" and shall further state the grounds upon which it was issued together with the date, time, and location of a hearing on the matter. For good cause shown, the Commissioner may grant the director, officer, or employee subject to the order a 10-day extension of the hearing date, but the temporary removal order shall remain in full force and effect. Upon a hearing before the Commissioner within the prescribed time, the temporary removal order may be dissolved or made permanent in whole or in part.

(b) Any removal under this section is effective in all respects as if the removal had been made by the shareholders of the bank in question.

(c) Without the prior written approval of the Commissioner, no director, officer, or employee subject to an order under this section shall be eligible to be elected, reelected, or appointed any position as a director, officer, or employee of that bank or any other North Carolina financial institution during the period of the order's effect.

(d) An individual who is the subject of an order of the Commissioner under this section may appeal the order to the Commission pursuant to G.S. 53C-2-6 no later than 10 days after the date of issuance of the order.

"§ 53C-8-16. Emergency powers.

In the event of a natural disaster or other national, regional, state, or local emergency, the Commissioner may temporarily waive or suspend requirements for compliance by one or more banks with any provisions of this Chapter.

"§ 53C-8-17. Interstate regulatory agreements.

The Commissioner may enter into cooperative, coordinating, and information sharing agreements with (i) any bank supervisory agency having jurisdiction over an out-of-state bank that operates one or more branches in this State and (ii) any bank supervisory agency of another state in which a bank operates one or more branches with respect to the periodic examination or other supervision of the branches of the out-of-state bank operating in this State or the branches of the bank operating in such other state.

"Article 9."Supervisory Liquidation; Voluntary Dissolution and Liquidation."Part 1. General Provisions.**"§ 53C-9-101. Supervisory combinations.**

Notwithstanding any other provision of this Chapter, in order to protect the public, including depositors and creditors of a bank, the Commissioner, upon making a finding that a bank is unable to operate in a safe and sound manner and is not reasonably likely to be able to resume safe and sound operations, may authorize or require a combination of the bank, a control transaction, or any other transaction, whether or not the Commissioner has taken supervisory control pursuant to G.S. 53C-8-14. In ordering any such combination, control transaction, or other transaction, the Commissioner may order that a vote of the bank's shareholders shall not be required to effect the combination, control transaction, or other transactions.

"§ 53C-9-102. Distributions; assignments restricted.

A bank that is in the process of involuntary or voluntary dissolution pursuant to this Article may not make or pay distributions to its shareholders unless the bank has the prior written approval of the Commissioner. No bank shall make any general assignment for the benefit of its creditors except by surrendering possession of its assets to the Commissioner for dissolution and liquidation pursuant to G.S. 53-9-301, and any other purported assignment by the bank for the benefit of its creditors shall be void.

"§ 53C-9-103. Cancellation of charter.

Whenever a combination, dissolution, or other transaction occurs by which a bank ceases to exist or ceases to be eligible for a charter, the Commissioner shall by order cancel the bank's charter and shall publish the order in accordance with G.S. 53-1-4(59). A copy of the order shall be filed by the Commissioner with the Secretary of State. The bank shall continue to exist under Chapter 55 of the General Statutes for the purpose of dissolving and liquidating its business and affairs.

"Part 2. Voluntary Dissolution and Liquidation.**"§ 53C-9-201. Voluntary dissolution prior to receipt of charter.**

A bank in formation may, prior to issuance of its charter, give notice to the Commissioner and, with the Commissioner's consent, abandon its application to the Commissioner and dissolve and liquidate by a majority vote of its board of directors and as provided under Chapter 55 of the General Statutes.

"§ 53C-9-202. Voluntary dissolution.

(a) With the approval of the Commissioner, a bank may engage in a voluntary dissolution and liquidation.

(b) If, by a majority vote, the board of directors of a bank should determine that in their judgment the bank should be dissolved and liquidated, then the board of directors shall submit immediately to the Commissioner the following documents, certified by an appropriate officer of the bank:

- (1) The board of directors' resolution.
- (2) The bank's proposed articles of dissolution.
- (3) The board of directors' plan for liquidation.
- (4) Any notices or proxy solicitation materials proposed to be sent to shareholders.

(c) The Commissioner shall examine the documents submitted under subsection (b) of this section and such other matters as the Commissioner deems relevant and may issue an order authorizing the bank and its board of directors to proceed with dissolution and liquidation as provided in G.S. 53C-9-203. Examination by the Commissioner of the materials referred to in subsection (b)(4) of this section shall not be deemed to be approval of the documents for any purpose.

(d) At any annual or special meeting of shareholders called for the purpose of voting upon a proposal for voluntary dissolution of a bank, the shareholders of the bank may, by an affirmative vote, in person or by proxy, of the holders of shares representing at least two-thirds of the votes entitled to be cast on such matters, resolve to dissolve and liquidate the bank in accordance with the order of the Commissioner issued under subsection (c) of this section.

(e) If a majority of the board of directors of a bank should determine that in its best judgment the bank should be dissolved and liquidated but deems it impractical or otherwise inadvisable to proceed with a vote upon voluntary dissolution by the shareholders, then the board of directors shall immediately forward a certified copy of its resolution to the Commissioner and the Commissioner shall place the bank in receivership pursuant to G.S. 53C-9-301.

"§ 53C-9-203. Voluntary dissolution and liquidation procedure.

(a) At the appropriate time, the Commissioner shall do the following:

- (1) Inform the FDIC and the bank's federal supervisory agency if other than the FDIC.
- (2) Select and appoint a receiver or receiver in liquidation, just as if the liquidation were involuntary under G.S. 53C-9-301.
- (3) Attach a certificate of approval to the articles of dissolution, and the bank shall then file the certified articles with the Secretary of State.

(b) Upon the filing of the articles of dissolution with the Secretary of State, it shall be unlawful for the bank to accept any additional deposit accounts or additions to deposit accounts or make any additional extensions of credit, but all its income and receipts in excess of actual expenses of liquidation of the bank shall be applied to the discharge of its liabilities.

(c) The persons charged with liquidation of the bank in the approved plan of dissolution shall cause to be published a public notice stating the bank has closed and will dissolve and liquidate and notifying its depositors and creditors to present their claims for payment, specifying the method for doing so.

(d) The bank may pay reasonable compensation, subject to the approval of the Commissioner, to the persons charged with its liquidation.

(e) Any bank in the process of voluntary dissolution and liquidation shall be subject to examination by the Commissioner and shall furnish any reports required by the Commissioner.

(f) If the Commissioner determines at any time that the voluntary liquidation plan is not working, the Commissioner may place the bank in receivership pursuant to G.S. 53C-9-301.

"Part 3. Receivership; Involuntary Dissolution.

"§ 53C-9-301. Receivership.

(a) The Commissioner may take custody of the books, records, and assets of every kind and character of any bank in the instances established in Part 2 of this Article or if it reasonably appears from one or more examinations made by the Commissioner that any of the following conditions exist:

- (1) The directors or officers of the bank, or the liquidators of the bank subject to a voluntary plan of liquidation, have neglected, failed, or refused to take action that the Commissioner deems necessary for the protection of the bank.
- (2) The directors, officers, or liquidators of the bank have impeded or obstructed an examination.
- (3) The business of the bank is being conducted in a fraudulent, illegal, or unsafe manner.
- (4) The bank is in an unsafe or unsound condition to transact business and it is not reasonably probable that it will be able to return to a safe and sound condition.
- (5) The capital of the bank is impaired such that the likely realizable value of its assets is insufficient to pay and satisfy the claims of all depositors and all creditors.
- (6) The directors or officers of the bank, or the liquidators of a bank subject to a voluntary plan of liquidation, have assumed duties or performed acts in excess of those authorized by applicable statutes or regulations, by the bank's organizational documents or plan of liquidation, or without supplying the required bond.
- (7) The bank is insolvent or is in imminent danger of insolvency or has suspended its ordinary business transactions due to insufficient funds.
- (8) The bank is unable to continue operations.

(b) Unless the Commissioner reasonably finds that an emergency exists that requires that the Commissioner take custody immediately, the Commissioner shall first give written notice to the board of directors of the bank specifying which of those circumstances listed in subdivisions (1) through (8) of subsection (a) have been determined to exist and shall allow a reasonable time in which corrections may be made before a receiver of the bank will be appointed as outlined in subsections (c) and (d) of this section. For these purposes, "written notice" shall be deemed to include any report of examination or other confidential or nonconfidential written communication that is either directly from the Commissioner or is joined in by the Commissioner.

(c) The Commissioner shall appoint as receiver or coreceivers one or more qualified persons for the purpose of receivership and liquidation of the bank of which the Commissioner has taken custody under subsection (a) of this section, which receiver shall furnish a bond in such form and amount, and with such surety, as the Commissioner may require.

(d) The Commissioner may appoint the FDIC or its nominee as the receiver, and the receiver shall be permitted to serve without posting bond. In the event of such an appointment, the Commissioner shall thereafter be forever relieved of any and all responsibility and liability in respect to the receivership and the liquidation of the bank.

(e) In the event the Commissioner takes custody of a bank and then appoints a receiver for the bank, the Commissioner shall serve personally at the bank's principal office through the officer who is present and appears to be in charge, the Commissioner's order taking possession and, if applicable, the Commissioner's order appointing a receiver for the bank in liquidation. The Commissioner shall also mail a certified copy of the order taking possession and the appointing order by certified mail or by express delivery to any previous receiver or other legal custodian of the bank and to the Clerk of Superior Court of Wake County. The Commissioner shall give notice to the public of the Commissioner's actions by posting a notice summarizing the Commissioner's actions near the entrance to each branch of the bank, and the Commissioner shall issue a similar public notice as defined in G.S. 53C-1-4(59).

(f) Whenever a receiver for a bank is duly appointed and qualified under subsection (c) or (d) of this section:

- (1) The receiver, by operation of law and without any conveyance or other instrument, act, or deed, shall succeed to all the rights, titles, powers, and privileges of the bank, its shareholders, officers, and directors, or any of them, and to the titles to the books, records, and assets of every description of any previous receiver or other legal custodian of the bank. Neither the shareholders, officers, or directors, nor any of them, shall thereafter, except as expressly provided in this section, have or exercise any rights, powers, or privileges or act in connection with any assets or property of any nature of the bank in receivership.
 - (2) The Commissioner may, at any time, direct the receiver (unless it is the FDIC) to return the bank to its previous or a newly constituted management and its shareholders.
 - (3) A receiver, other than the FDIC, may, at any time during the receivership and before final liquidation, be removed and a replacement appointed by the Commissioner.
- (g) A receiver may perform any of the following acts:
- (1) Demand, sue for, collect, receive, and take into possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, papers, choses in action, bills, instruments, notes, intangible interests, and property of every description of the bank.
 - (2) Foreclose mortgages, deeds of trust, and other liens granted to the bank to the extent the bank would have the right to do so.
 - (3) Seek injunctions and institute suits for the recovery of any property, damages, or demands existing in favor of the bank, and shall, upon the receiver's own application, be substituted as party plaintiff in the place of the bank in any suit or proceeding pending at the time of the receiver's appointment.
 - (4) Sell, convey, and assign any or all of the property rights and interests owned by the bank.
 - (5) Appoint agents and engage independent contractors.
 - (6) Examine papers and investigate persons.
 - (7) Make and carry out agreements with the FDIC for the payment or assumption of the bank's liabilities, in whole or in part, and to sell, convey, transfer, pledge, or assign assets as security or otherwise and to make guarantees in connection therewith.
 - (8) Perform all other acts that might be done by the employees, officers, and directors of the bank.

These powers shall be continued in effect until liquidation of the bank or until return of the bank to its prior or newly constituted management.

(h) The Commissioner may, unless the FDIC has been appointed as receiver, determine that the receivership proceedings of a bank should be discontinued and the possession of the bank returned to newly constituted management. The Commissioner shall then remove the receiver and restore all the rights, powers, and privileges of the bank's depositors, shareholders, customers, employees, officers, and directors. The return of a bank to a newly constituted management from the possession of a receiver shall, by operation of law and without any conveyance or other instrument, act, or deed, vest in the bank the title to all property held by the receiver in the capacity as receiver for the bank.

(i) Claims against a bank in receivership shall have the following order of priority for payment:

- (1) Costs, expenses, and debts of the bank incurred on or after the date of the appointment of the receiver, including compensation for the receiver and a reasonable sum for the time of employees and agents of the OCOB.
- (2) Claims of holders of deposit accounts.
- (3) Claims of secured creditors in such order of priority as is established by applicable law or regulation.
- (4) Claims of general creditors.
- (5) Claims of holders of the bank's shares in the order of preference established by the bank's organizational documents.

(j) All claims of each class described within subsection (i) of this section shall be paid in full so long as sufficient assets are available therefor. Members of a class for which the receiver cannot make payment in full shall be paid an amount proportionate to their total claims.

(k) The Commissioner may direct the receiver to make payment of claims for which no provision is made in this section and may direct the payment of less than all claims within a class.

(l) When all assets of the bank have been fully liquidated, all claims and expenses have been paid or settled, and the receiver has recommended a final distribution, the dissolution of the bank in receivership shall be accomplished in the following manner:

- (1) The receiver shall file with the Commissioner a detailed report, in a form to be prescribed by the Commissioner, of the receiver's acts and proposed final distribution of the bank's assets.
- (2) Upon the Commissioner's approval of the final report of the receiver, the receiver shall make the final distribution of the bank's assets in any manner as the Commissioner may direct.
- (3) When any unclaimed property, including funds due to a known but unlocated depositor, remains following the final distribution of the bank's assets, such property shall be promptly transferred to the State Treasurer to hold in accordance with the provisions of Chapter 115B of the General Statutes.
- (4) Upon completion of the actions described in this subsection, the process of dissolution and liquidation of the bank shall be deemed complete, and the Commissioner shall issue a certification of completed liquidation to the Secretary of State.
- (5) Upon completion of the process of dissolution and liquidation, the Commissioner shall cause an examination of the receiver's activities and records to be conducted, with which the receiver shall assist. The accounts of the receiver shall then be ruled upon by the Commissioner, and if approved, the receiver shall be given a final and complete discharge and release.

"Part 4. Provisions Relating to Any Dissolution or Receivership.

"§ 53C-9-401. Statute relating to receivers applicable to insolvent banks.

The provisions of G.S. 1-507.1 through 1-507.11, relating to receivers, when not inconsistent with the provisions of this Article, shall apply to the liquidation of banks under this Article.

"§ 53C-9-402. Storage and destruction of records.

(a) Any record of a bank that is in or has completed the process of dissolution and liquidation may be kept in compliance with the provisions of G.S. 53C-6-14.

(b) All records of a bank that has completed the process of dissolution and liquidation shall be held in such place as in the Commissioner's judgment will provide for their proper safekeeping and protection.

(c) After the expiration of five years from the date of filing of the certificate of completed liquidation under G.S. 53C-9-301, the records of the liquidated bank may be destroyed by the Commissioner using commercially reasonable record destruction procedures.

(d) Nothing in this section shall be construed to authorize the destruction by the Commissioner of any of the records of the OCOB made by it with reference to the dissolution, receivership, or liquidation of any bank.

"§ 53C-9-403. Authority to serve as trustee terminated.

Whenever any bank that has been, or shall be, appointed trustee in any indenture, deed of trust, or other instrument of like character, executed to secure the payment of any bonds, notes, or other evidences of indebtedness, has been or shall be placed in receivership, the powers and duties of the bank as trustee in any such instrument shall, upon the entry of an order of the clerk of superior court having jurisdiction under G.S. 53C-9-405 appointing a successor trustee, upon a petition as described in this Part, immediately cease.

"§ 53C-9-404. Petition for new trustee; upon parties interested.

In all cases of dissolution receivership and liquidation under this Article, the clerk of superior court of any county in which an indenture, deed of trust, or other instrument of like character is recorded shall, upon the verified petition of any person interested in any such trust, either as trustee, beneficiary, or otherwise, which interest shall be set out in the petition, enter an order directing service, in the manner required by law for service of summons, on all interested parties of a notice requiring all persons having any interest in the trust to appear at the clerk's office on a day designated in the order and notice, not less than 30 days from the date of the first publication of the notice, and show cause why a new trustee shall not be appointed. The notice shall set forth the names of the parties to the indenture, deed of trust, or other such instrument, and the date the documents were executed and the place of recording.

"§ 53C-9-405. Appointment of substitute trustee where no objection made.

If, upon the day fixed in the notice, no person appears and objects to the appointment of a substitute trustee, the clerk of superior court shall, upon such terms as he or she deems advisable to the best interest of all parties, appoint a competent person authorized to act as substitute trustee, who shall be vested with and shall exercise all the powers conferred upon the trustee named in the instrument.

"§ 53C-9-406. Hearing where objection made; appeal from order.

If objection is made to the appointment of a new trustee under this Part, the clerk shall hear and determine the matter, and from his or her decision an appeal may be prosecuted as in cases of special proceedings generally.

"§ 53C-9-407. Registration of final order.

The final order of appointment of a new trustee or trustees under this Part shall be certified by the clerk of superior court issuing the order and shall be recorded in the office of the register of deeds in the county or counties in which the instrument under which the appointment has been made is recorded.

"§ 53C-9-408. Petition and order applicable to all instruments involved.

The petition and the order appointing a new trustee or trustees under this Part may apply to any number of indentures, deeds of trust, or other instruments, wherein the same trustee or trustees are named.

"§ 53C-9-409. Additional remedy.

The appointment of a substitute trustee as described in this Part shall be in addition to and not substitution for any other remedy provided by law.

"Article 10.

"Bank Holding Companies.

"Part 1. Change in Control.

"§ 53C-10-101. Holdings companies.

Every holding company, as defined in G.S. 53C-1-4(39), of a bank shall register with the Commissioner and maintain that registration on an annual basis in the form prescribed by the Commissioner.

"§ 53C-10-102. Holding company control transaction.

(a) Except as otherwise expressly permitted by this section, a person shall not engage in a control transaction to which a holding company formed under the laws of this State and having a bank as a subsidiary is a party without the prior approval of the Commissioner. A person may contract to engage in a control transaction with the consummation of the control transaction being subject to receipt of the approval of the Commissioner.

(b) The Commissioner may require a person who is obligated to file a notice or an application under this section to appoint an agent resident in this State for service of process upon the filing of the notice or application or as a condition to the acceptance of the notice or application for review. An application for approval shall be in a form required by the Commissioner and shall be accompanied by such fee as may be required by rule.

(c) The following transactions shall not constitute a control transaction under this section requiring the prior approval of the Commissioner:

- (1) The acquisition of control over voting securities by a person who has previously engaged in a control transaction with respect to the holding company after receiving the approval of the Commissioner under this Article, which approval permits the acquisition of control over additional voting securities, or any person who is an affiliate of the person previously engaging in the approved control transaction with such permission and who is identified in the application submitted for the approval, if the acquiring person files a notice with the Commissioner, in the form required by the Commissioner, describing the transaction at least 10 days before the acquiring person or affiliate thereof first votes or directs the voting of the voting securities.
- (2) An acquisition of control over voting securities by operation of law, will, or intestate succession, if the acquiring person files a notice with the Commissioner, in the form required by the Commissioner, describing the acquisition or transfer at least 10 days before the acquiring person first votes or directs the voting of the voting securities.
- (3) Bona fide gifts.
- (4) A transaction exempted by rules, orders, or declaratory rulings of the Commissioner, issued because approval of the transaction is not necessary to achieve the objectives of this Chapter.
- (5) An acquisition of control over voting shares exempt from the prior approval requirements set forth in section 3 of the Bank Holding Company Act, as amended (12 U.S.C. § 1842), pursuant to the exceptions described in items (A), (B) or (C) of that section.

(d) Upon receipt of a notice described in subsection (c) of this section, the Commissioner may, before the 10th day following the receipt, notify the acquiring person of the Commissioner's objection to the exercise of control over the voting securities or may require the acquiring party to submit further information before exercising control over the voting securities. An acquiring person receiving a notice of objection shall be required to submit an application for approval of a control transaction. An acquiring person receiving a notice to submit further information may be required to provide any information that would be included in an application for approval of a control transaction. In the event such an acquiring person is comprised of a group of persons, the Commissioner may require each member of the group to submit relevant information.

(e) All voting securities over which control has been acquired by an acquiring person shall not be voted on any matter submitted to a vote of the holders of the outstanding voting securities of the holding company of a bank and shall be deemed authorized but unissued for purposes of determining the presence of a quorum of holders of voting securities until such time as follows:

- (1) The Commissioner has approved an application for approval of a control transaction with respect to the voting securities.
- (2) The transaction is one listed in subsection (c) of this section that does not require the filing of a notice with the Commissioner.
- (3) The transaction is one listed in subsection (c) of this section that requires a notice to be filed with the Commissioner and the Commissioner has not issued an objection to the notice and any requirement of the Commissioner for the filing of further information had been determined by the Commissioner to have been satisfied.

"§ 53C-10-103. Application regarding a control transaction.

(a) A person seeking approval of a control transaction to which a holding company of a bank is a party under this Article shall file the following with the Commissioner:

- (1) An application in the form prescribed by the Commissioner.
- (2) All filing fees required by rule of the Commissioner.
- (3) Any other information required by a rule of the Commissioner or deemed by the Commissioner to achieve the objectives of this Chapter.

(b) In the event a person submitting an application is a group of persons, the Commissioner may require each member of the group to submit information relevant to the application.

(c) Notwithstanding any laws to the contrary, information about the character, competence, or experience of an acquiring person or its proposed management personnel or affiliates shall be deemed a confidential record of the Commissioner subject to G.S. 53C-2-7(b).

"§ 53C-10-104. Public notice.

A person filing an application for approval of a control transaction shall publish a public notice of the filing of the application not more than 30 days before nor more than 10 days after the filing of the application with the Commissioner. The public notice shall contain the following:

- (1) A statement that the application has been filed with the Commissioner.
- (2) The name of the applicable holding company and the address of its principal office.
- (3) A statement that any interested person may make written comment on the proposed control transaction and that comments received by the Commissioner within 14 days of the publication of the public notice shall be considered. The public notice shall provide the current mailing address of the Commissioner.

"§ 53C-10-105. Actions on control transaction applications.

(a) The Commissioner shall examine the proposed control transaction, including the character, competence, and experience of the acquiring person and its proposed management personnel, to determine whether the financial stability of the holding company or the interests of the customers served by one or more bank subsidiaries of the holding company would be adversely affected by the proposed control transaction. Not later than the 60th day following receipt of a completed application for approval of a control transaction unless extraordinary circumstances require a longer period of review, the Commissioner shall approve or deny the application.

(b) The Commissioner may deny an application for approval of a control for any of the following reasons:

- (1) The financial condition of the person seeking approval of a control transaction could jeopardize the financial stability of the holding company, one or more bank subsidiaries of the holding company, or the financial interests of the bank's customers.

- (2) An examination of the character, competence, or experience of any acquiring person or of any of the proposed management personnel of the holding company shows that it would not be in the interest of the customers of one or more of the bank subsidiaries of the holding company or in the interest of the public to permit the person to control the holding company.
- (3) The plans or proposals of the person seeking approval with respect to exercising control over the holding company would not be in the best interests of the customers of one or more bank subsidiaries of the holding company.
- (4) Upon the effective date of the proposed control transaction, one or more of the bank subsidiaries of the holding company would not be solvent, have inadequate capital, or not be in compliance with this Chapter or rules of the Commissioner.
- (5) The application for approval is incomplete.
- (6) If the acquiring person solicits votes for the approval of or consents to the control transaction from the holders of the voting securities of the holding company, adequate and complete disclosures of all material information about the proposed control transaction, together with a prominent statement that neither the control transaction nor any solicitation of such holders' votes or consents has been approved by the Commissioner and that any representation to the contrary is a criminal offense, have not been made to the holders.

(c) If an application filed under this Part is approved by the Commissioner, the control transaction may become effective. All conditions to approval set forth in the order of the Commissioner shall be enforceable against the person, and each member of a group of persons, receiving the approval.

"§ 53C-10-106. Appeal.

Any order of the Commissioner denying an application for approval of a control transaction may be appealed to the Commission by the person filing the application denied, as provided in G.S. 53C-2-6.

"Part 2. Combinations.

"§ 53C-10-201. Combination authority.

With the approval of the Commissioner, a holding company of a bank may combine with one or more other holding companies or other companies. The application for approval shall be in the form required by the Commissioner and shall be accompanied by such fee as may be required by rule.

"§ 53C-10-202. Combination application and investigation.

(a) A holding company of a bank seeking approval of a combination shall file with the Commissioner an application for approval, copies of the agreement under which the holding company proposes to effect the combination, and any additional information that the Commissioner shall require by rule or as is required by the Commissioner in connection with the application in order to achieve the objectives of this Chapter.

(b) A holding company filing an application for approval of a combination shall publish a public notice of the filing of the application not more than 30 days before nor more than 10 days after the filing of the application with the Commissioner. The public notice shall contain the following:

- (1) A statement that the application has been filed with the Commissioner.
- (2) The names of the parties to the proposed combination and the addresses of its principal offices.

(3) A statement that any interested person may make written comment on the proposed combination and that comments received by the Commissioner within 14 days of the publication of the public notice shall be considered. The public notice shall provide the current mailing address of the Commissioner.

(c) The Commissioner shall examine the proposed combination, including the character, competency, and experience of the proposed directors and executive officers of the surviving party of the combination, to determine whether the interests of the customers and communities served by the banks controlled by the parties to the combination would be adversely affected by the proposed combination.

(d) Notwithstanding any laws to the contrary, information about the character, competence, and experience of the directors and executive officers of the parties to a combination received by the Commissioner shall be deemed a confidential record of the Commissioner subject to G.S. 53C-2-7(b).

"§ 53C-10-203. Decision on application.

Based on the application and the Commissioner's examination, the Commissioner shall enter an order approving or denying approval of the proposed combination not later than the 60th day following the date the Commissioner notifies the parties that the application is complete, unless extraordinary circumstances require a longer period of review.

"§ 53C-10-204. Appeal.

Any order of the Commissioner denying an application for approval of a combination may be appealed to the Commission by a party to the combination, as provided in G.S. 53C-2-6.

"Part 3. General Authority.

"§ 53C-10-301. Cease and desist order.

Upon a finding that any action of a holding company subject to this Article may be in violation of any banking laws, the Commissioner, after a reasonable notice to the holding company and an opportunity for it to be heard, shall have the authority to order it to cease and desist from such action. If the holding company fails to appeal the decision within 10 days of the date of the issuance of the order in accordance with G.S. 53C-2-6, and continues to engage in the action in violation of the Commissioner's order to cease and desist such action, it shall be subject to a civil money penalty of twenty thousand dollars (\$20,000) for each day it remains in violation of the 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 holding company's failure to comply with an order of the Commissioner. The clear proceeds of the civil money penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"§ 53C-10-302. Other control changes.

Each holding company of a bank shall report to the Commissioner any changes in its directors, president, chief executive officer, or chief financial officer by the close of the second day on which the holding company is open for business following the change."

SECTION 5. G.S. 1-339.1(a) reads as rewritten:

"(a) A judicial sale is a sale of property made pursuant to an order of a judge or clerk in an action or proceeding in the superior or district court, including a sale pursuant to an order made in an action in court to foreclose a mortgage or deed of trust, but is not

...

(7) A sale made in the course of liquidation of a bank pursuant to ~~G.S. 53-20,~~ Article 9 of Chapter 53C of the General Statutes, or

...."

SECTION 6. G.S. 24-1.1A(d) reads as rewritten:

"(d) The loans or investments regulated by ~~G.S. 53-45~~ G.S. 53C-5-3 shall not be subject to the provisions of this section."

SECTION 7. G.S. 25-4-405(c) reads as rewritten:

"(c) A transaction, although subject to this Article, is also subject to G.S. 41-2.1, ~~53-146.1~~, ~~53C-6-6~~, 54-109.58, and 54B-129, and in case of conflict between the provisions of this section and either of those sections, the provisions of those sections control."

SECTION 8. G.S. 36C-1-102 reads as rewritten:**"§ 36C-1-102. Scope.**

This Chapter applies to any express trust, private or charitable, with additions to the trust, wherever and however created. The term "express trust" includes both testamentary and inter vivos trusts, regardless of whether the trustee is required to account to the clerk of superior court. This Chapter also applies to any trust created for or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. This Chapter does not apply to constructive trusts, resulting trusts, conservatorships, estates, ~~trust~~ Payable on Death accounts as defined in ~~G.S. 53-146.2~~, ~~G.S. 53C-6-7~~, 54-109.57, 54B-130, and 54C-166, trust funds subject to G.S. 90-210.61, custodial arrangements under Chapter 33A of the General Statutes and Chapter 33B of the General Statutes, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, or any arrangement under which a person is nominee or escrowee for another."

SECTION 9. G.S. 53-163.1(b) reads as rewritten:

"(b) Funds held in a fiduciary capacity by a depository institution, awaiting investment or distribution may, unless prohibited by the instrument creating the fiduciary relationship, be deposited in the commercial or savings or other department of the depository institution, provided that it shall first set aside under control of the trust department as collateral security, the classes of securities listed in G.S. 159-30(c) as being eligible for the investment of funds by local governments and public authorities equal in market value of such deposited funds, or readily marketable commercial bonds having not less than a recognized "A" rating equal to one hundred and twenty-five percent (125%) of the funds so deposited.

The securities so deposited or securities substituted therefor as collateral in the trust department by the commercial or savings or other department (as well as the deposit of cash in the commercial or savings or other department by the trust department) shall be held pursuant to the provisions of ~~G.S. 53-43(6)~~ G.S. 53-163.3.

If such funds are deposited in a depository institution insured under the provisions of the Federal Deposit Insurance Act, the above collateral security will be required only for that portion of uninvested balances of each trust which are not fully insured under the provisions of that act."

SECTION 10. Article 14 of Chapter 53 of the General Statutes is amended by adding a new section to read:

"§ 53-163.3. Fiduciary funds awaiting investment.

A bank that is a trust institution may maintain separate departments and deposit in its commercial department to the credit of its trust department all uninvested fiduciary funds of cash and secure all such deposits in the name of the trust department, whether in consolidated deposits or for separate fiduciary accounts, by segregating and delivering to the trust department such securities as are required by G.S. 53-163.1 for such deposits. Such securities shall be held by the trust department as security for the full payment or repayment of all such deposits and shall be kept separate and apart from other assets of the trust department. Until all of the deposits shall have been accounted for to the trust department or to the individual fiduciary accounts, no creditor of the bank shall have any claim or right to such security. When fiduciary funds are deposited by the trust department in the commercial department of the bank, the deposit thereof shall not be deemed to constitute a use of such funds in the general business of the bank. To the extent and in the amount such deposits may be insured by the FDIC, the amount of security required for such deposits by this section may be reduced. The Banking

Commission shall have power to make such rules as it may deem necessary for the enforcement of the provisions of this section."

SECTION 11. G.S. 53-167 reads as rewritten:

"§ 53-167. Expenses of supervision.

Each licensee, for the purpose of defraying necessary expenses of the Commissioner of Banks and his agents in supervising them, Office of Commissioner of Banks for supervision, each licensee shall pay to the Commissioner of Banks the fees prescribed in G.S. 53-122 at the times therein specified, an assessment not to exceed eighteen dollars (\$18.00) per one hundred thousand dollars (\$100,000) of assets, or fraction thereof, plus a fee of three hundred dollars (\$300.00) per office; provided, however, a consumer finance licensee shall pay a minimum annual assessment of not less than five hundred dollars (\$500.00). The assessment shall be determined on a consumer finance licensee's total assets as shown on its report of condition made to the Commissioner as of December 31 of each year, or the date most nearly approximating that date. If the Commissioner determines that the financial condition or manner of operation of a consumer finance licensee warrants further examination or an increased level of supervision, the licensee may be subject to assessment not to exceed the amount determined in accordance with the schedule set forth in this section."

SECTION 12. G.S. 53-184(a) reads as rewritten:

"(a) Each licensee shall maintain all books and records relating to loans made under this Article required by the Commissioner of Banks to be kept, and the Commissioner, his deputy, or duly authorized examiner or agent or employee is authorized and empowered to examine such records at any reasonable time. Such books and records may be maintained in the form of magnetic tape, magnetic disk, optical disk, or other form of computer, electronic or microfilm media available for examination on the basis of computer printed reproduction, video display or other medium acceptable to the Commissioner of Banks; provided, however, that such books and records so kept must be convertible into clearly legible tangible documents within a reasonable time. Any licensee having more than one licensed office may maintain such books and records at a location other than the licensed office location if such location is approved by the Commissioner; provided that, upon such requirements as may be imposed by the Commissioner of Banks, there shall be available to the borrower at each licensed location or such other location convenient to the borrower, as designated by the licensee, complete loan information; and provided further that such books and records of each licensed office shall be clearly segregated. When a licensee maintains its books and records outside of North Carolina, the licensee shall make them available for examination at the place where they are maintained and shall pay for all reasonable and necessary expenses incurred by the Commissioner in conducting such examination. Where the data processing for any licensee is performed by a person other than the licensee, the licensee shall provide to the Commissioner of Banks a copy of a binding agreement between the licensee and the data processor which allows the Commissioner of Banks, his deputy, or duly authorized examiner or agent or employee to examine that particular data processor's activities pertaining to the licensee to the same extent as if such services were being performed by the licensee on its own premises; and, notwithstanding the provisions of ~~G.S. 53-167 and 53-122~~, G.S. 53-167, when billed by the Commissioner of Banks, the licensee shall reimburse the Commissioner of Banks for all costs and expenses incurred by the Commissioner in such examination."

SECTION 13. G.S. 53-188 reads as rewritten:

"§ 53-188. Review of regulations, order or act of Commission or Commissioner.

The Commission may review any rule, regulation, order or act of the Commissioner done pursuant to or with respect to the provisions of this Article. Any person aggrieved by any such rule, regulation, order or act may appeal, pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6(b), to the Commission for review upon giving notice in writing within 20 days after such rule, regulation, order or act complained of is adopted, issued or done. Notwithstanding any other provision of law to the contrary, any aggrieved party to a decision of the Commission shall be entitled to petition for judicial review pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6(b)."

SECTION 14. G.S. 53-208.27(b) reads as rewritten:

"(b) The Banking Commission may review any rule, regulation, order, or act of the Commissioner done pursuant to or with respect to the provisions of this Article. Any person aggrieved by any such rule, regulation, order, or act may appeal, pursuant to ~~G.S. 53-92(d), G.S. 53C-2-6(b)~~, to the Commission for review upon providing notice in writing within 20 days after any rule, regulation, order, or act complained of is adopted, issued, or done. Notwithstanding any other provision of law, any aggrieved party to a decision of the Banking Commission shall be entitled to petition for judicial review pursuant to ~~G.S. 53-92(d), G.S. 53C-2-6(b)~~."

SECTION 15. G.S. 53-215 reads as rewritten:**"§ 53-215. Appeal of Commissioner's decision.**

Any aggrieved party in a proceeding under ~~G.S. 53-211, 53C-10-102, or G.S. 53-227.1, 53C-10-201~~ may, within 20 days after final decision of the Commissioner, appeal in writing any decision to the State Banking Commission. An appeal under this section shall be made pursuant to ~~G.S. 53-92(d), G.S. 53C-2-6~~. Notwithstanding any other provision of law, any aggrieved party to a decision of the State Banking Commission shall be entitled to petition for judicial review pursuant to ~~G.S. 53-92(d), G.S. 53C-2-6~~."

SECTION 16. G.S. 53-217 reads as rewritten:**"§ 53-217. Enforcement.**

The Commissioner shall have the power to enforce the provisions of this Article through an action in any court of this State or any other state or in any court of the United States, as provided in ~~G.S. 53-94 and G.S. 53-134, G.S. 53C-8-12~~, for the purpose of obtaining an appropriate remedy for violation of any provision of this Article, ~~including such criminal penalties as are contemplated by G.S. 53-134, Article.~~"

SECTION 17. G.S. 53-224.11(b) reads as rewritten:

"(b) A North Carolina State bank desiring to establish and maintain a branch in another state under this section shall file an application on a form prescribed by the ~~Commissioner and pay the branch application fee prescribed by regulation pursuant to G.S. 53-122, Commissioner~~. If the Commissioner finds that the applicant has the financial resources sufficient to undertake the proposed expansion without adversely affecting its safety or soundness and that the establishment of the proposed branch is in the public interest, the Commissioner may approve the application. In acting on the application, the Commissioner shall consider the views of the appropriate bank supervisory agencies. The applicant bank may establish the branch when it has received the written approval of the Commissioner."

SECTION 18. G.S. 53-224.18 reads as rewritten:**"§ 53-224.18. Authority of State banks to establish interstate branches by merger.**

With the prior approval of the Commissioner, a North Carolina State bank may establish, maintain, and operate one or more branches in a state other than North Carolina pursuant to an interstate merger transaction in which the North Carolina State bank is the resulting bank. Not later than the date on which the required application for the interstate merger transaction is filed with the responsible federal bank supervisory agency, the applicant North Carolina State bank shall file an application on a form prescribed by the ~~Commissioner and pay the fee prescribed by regulation pursuant to G.S. 53-122, Commissioner~~. The applicant shall also comply with the applicable provisions of ~~G.S. 53-12, Part 2 of Article 7 of Chapter 53C of the General Statutes~~. If the Commissioner finds that (i) the proposed transaction will not be detrimental to the safety and soundness of the applicant or the resulting bank, (ii) any new officers and directors of the resulting bank are qualified by character, experience, and financial responsibility to direct and manage the resulting bank, and (iii) the proposed merger is consistent with the convenience and needs of the communities to be served by the resulting bank in this State and is otherwise in the public interest, it shall approve the interstate merger transaction and the operation of branches outside of North Carolina by the North Carolina State bank. Such an interstate merger transaction may be consummated only after the applicant has received the Commissioner's written approval."

SECTION 19. G.S. 53-224.20 reads as rewritten:

"§ 53-224.20. Notice and filing requirements.

Any out-of-state bank that will be the resulting bank pursuant to an interstate merger transaction involving a North Carolina bank shall notify the Commissioner of the proposed merger not later than the date on which it files an application for an interstate merger transaction with the responsible federal bank supervisory agency, and shall submit a copy of that application to the Commissioner and pay the filing fee required by the Commissioner. All banks which are parties to such interstate merger transaction involving a North Carolina State bank shall comply with ~~G.S. 53-12~~ Part 2 of Article 7 of Chapter 53C of the General Statutes and with other applicable state and federal laws. Any out-of-state bank which shall be the resulting bank in such an interstate merger transaction shall comply with Article 15 of Chapter 55 of the North Carolina General Statutes."

SECTION 20. G.S. 53-224.24(a) reads as rewritten:

"(a) The Commissioner may make such examinations of any branch of an out-of-state state bank established under this Article and located in this State as the Commissioner may deem necessary to determine whether the branch is operating in compliance with the laws of this State and to ensure that the branch is being operated in a safe and sound manner. The provisions of ~~G.S. 53-117~~ Article 8 of Chapter 53C of the General Statutes apply to such examinations."

SECTION 21. G.S. 53-224.30 reads as rewritten:

"§ 53-224.30. Appeal of Commissioner's decision.

Any aggrieved party in a proceeding under this Article may, within 20 days after final decision of the Commissioner, appeal, in writing, such decision to the North Carolina State Banking Commission. An appeal under this section shall be made pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6. Notwithstanding any other provision of law, any aggrieved party to a decision of the Commission shall be entitled to petition for judicial review pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6."

SECTION 22. G.S. 53-232.12(b) is repealed.

SECTION 23. G.S. 53-232.17 reads as rewritten:

"§ 53-232.17. Appeal of Commissioner's decision.

Any aggrieved party in a proceeding under this Article may, within 20 days after final decision of the Commissioner, appeal such decision in writing to the Banking Commission. An appeal under this section shall be made pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6. Notwithstanding any other provision of law, any aggrieved party to a decision of the Banking Commission shall be entitled to petition for judicial review pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6."

SECTION 24. G.S. 53-244.120(c) reads as rewritten:

"(c) The requirements of ~~G.S. 53-99(b)~~ G.S. 53C-2-7 regarding the privacy or confidentiality of any information or material provided under subsections (a) and (b) of this section, and any privilege arising under any other federal or State law with respect to such information or material, shall continue to apply to the information or material after it has been disclosed to an entity described in subsection (a) or (b) of this section. Information or material held by such an entity shall not be subject to disclosure under any State law governing the disclosure to the public of information held by an officer or agency of the State. The entities described in subsections (a) and (b) of this section may share information and material with all State and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by State or federal law."

SECTION 25. G.S. 53-244.121 reads as rewritten:

"§ 53-244.121. Review by Banking Commission.

The Banking Commission may review any rule, regulation, order, or act of the Commissioner made pursuant to or with respect to the provisions of this Article, and any person aggrieved by any rule, regulation, order, or act may, pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6, appeal to the Banking Commission for review upon giving 20 days' written

notice after the rule, regulation, order, or act is adopted or issued. The notice of appeal shall specifically state the grounds for appeal and, in the case of an appeal from a contested case proceeding before the Commissioner, shall set forth in numbered order the assignments of error for review by the Banking Commission. Failure to specify the assignments of error shall constitute grounds to dismiss the appeal. Failure to comply with the briefing schedule as provided by the Banking Commission shall also constitute grounds to dismiss the appeal. Notwithstanding any other provision of law, any party aggrieved by a decision of the Banking Commission shall be entitled to an appeal pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6."

SECTION 26. G.S. 53-252 reads as rewritten:

"§ **53-252. Appeal of Commissioner's decision.**

The Commission may review any rule, regulation, order, or act of the Commissioner done pursuant to or with respect to the provisions of this Article. Any person aggrieved by any such rule, regulation, order, or act may appeal, pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6, to the Commission for review upon giving notice in writing within 20 days after such rule, regulation, order, or act complained of is adopted, issued, or done. Notwithstanding any other provision of law, any aggrieved party to a decision of the Banking Commission shall be entitled to petition for judicial review pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6."

SECTION 27. G.S. 53-272 reads as rewritten:

"§ **53-272. Appeals.**

The Banking Commission may review any rule, regulation, order, or act of the Commissioner done pursuant to or with respect to the provisions of this Article. Any person aggrieved by any such rule, regulation, order, or act may appeal, pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6, to the Commission for review upon giving notice in writing within 20 days after such rule, regulation, order, or act complained of is adopted, issued, or done. Notwithstanding any other provision of law, any aggrieved party to a decision of the Banking Commission shall be entitled to petition for judicial review pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6."

SECTION 28. G.S. 53-289 reads as rewritten:

"§ **53-289. Commission may review rules, orders, or acts by Commissioner.**

The Commission may review any rule, regulation, order, or act of the Commissioner done pursuant to or with respect to the provisions of this Article. Any person aggrieved by any such rule, regulation, order, or act may appeal, pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6, to the Commission for review upon giving notice in writing within 20 days after such rule, regulation, order, or act complained of is adopted, issued, or done. Notwithstanding any other provision of law, any aggrieved party to a decision of the Banking Commission shall be entitled to petition for judicial review pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6."

SECTION 29. G.S. 53-301(a) reads as rewritten:

"(a) Except as otherwise provided in this Article, or when the context clearly indicates that a different meaning is intended, the following definitions shall apply throughout this Article:

...

(7) "Branch" has the meaning set forth in ~~G.S. 53-1(1a)~~, G.S. 53C-1-4(11).

...."

SECTION 30. G.S. 53-359(b) reads as rewritten:

"(b) A merger or share exchange authorized by subsection (a) of this section, shall be governed by Article 11 of Chapter 55 of the General Statutes and ~~G.S. 53-17~~, G.S. 53C-7-205. An acquisition or transfer of assets authorized by subsection (a) of this section shall be governed by Article 12 of Chapter 55 of the General Statutes and ~~G.S. 53-17~~, G.S. 53C-7-205."

SECTION 31. G.S. 53-366 reads as rewritten:

"§ **53-366. Applicability of other laws to authorized trust institutions; status of State trust company.**

(a) Except as otherwise provided in this Article, the following provisions of this Chapter shall apply to authorized trust institutions:

- (1) ~~G.S. 53-14;~~
- (2) ~~G.S. 53-16;~~
- (3) ~~G.S. 53-17;G.S. 53C-7-205.~~
- (4) ~~G.S. 53-68;~~
- (5) ~~G.S. 53-77.3;~~
- (6) ~~G.S. 53-85;~~
- (7) Article 8 of ~~this Chapter~~ 53C of the General Statutes, except where it clearly appears from the context that a particular provision is not applicable to trust business or trust marketing, and except that the provisions of this Article shall apply in lieu of:
 - a. ~~G.S. 53-95;G.S. 53C-8-2.~~
 - b. ~~G.S. 53-104;G.S. 53C-8-3.~~
 - c. ~~G.S. 53-105;G.S. 53C-8-17.~~
 - d. ~~G.S. 53-106; and~~
 - e. ~~G.S. 53-107.1(a), (b) and (d).~~
- (8) ~~Article 9 of this Chapter, except where it clearly appears from the context that a particular provision is not applicable to trust business or trust marketing, and except that the provisions of this Article shall apply in lieu of G.S. 53-119.~~
- (9) ~~Article 10 of this Chapter, except where it clearly appears from the context that a particular provision is not applicable to trust business or trust marketing, and except that the provisions of this Article shall apply in lieu of G.S. 53-135, and except that G.S. 53-131 and G.S. 53-132 shall not apply to authorized trust institutions.~~
- (10) Article 14 of this Chapter.

(b) Rules adopted by the Commissioner to implement those provisions of this Chapter made applicable to authorized trust institutions by subsection (a) of this section also shall apply to authorized trust institutions unless the rules are inconsistent with this Article or it clearly appears from the context that a particular provision is inapplicable to trust business or trust marketing.

(c) Activities of authorized trust institutions for clients shall not be considered the sale or issuance of checks under ~~G.S. 53-194.~~ Article 16 of Chapter 53 of the General Statutes.

(d) Until the Commissioner has issued new rules governing State trust companies, State trust companies shall be governed by rules issued by the Commissioner for banks acting in a fiduciary capacity, except to the extent the rules are inconsistent with this Article or it clearly appears from the context that a particular provision is inapplicable to the business of a State trust company.

(e) Notwithstanding any other provision of this Chapter, a State trust company:

- (1) ~~Is a "banking entity" for purposes of G.S. 53-127;~~
- (2) Is a "bank" for purposes of laws made applicable to authorized trust institutions in this section and for purposes of G.S. 53-277.
- (3) Is a trust company organized and doing business under the laws of the State of North Carolina, a substantial part of the business of which is exercising fiduciary powers similar to those permitted national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by the Commissioner as a banking institution; and
- (4) Is a financial institution similar to a bank.

(f) In the case of a State trust company controlled by a company that has declared itself to be a "financial holding company" under 12 U.S.C. § 1843(l)(1)(C)(i), deposits held for an account shall be deemed to be "trust funds" within the meaning of 12 U.S.C. § 1813(p) unless all fiduciary duties with respect to the account are explicitly disclaimed. This subsection does not prescribe the nature or extend the scope of any fiduciary duties; the nature and extent of any

fiduciary duties with respect to deposits held for accounts shall be as provided by the instruments and laws applicable to those accounts.

(g) Subject to any limitations contained in this Article, an authorized trust institution is a "trust company", a "corporate trustee", a "corporate fiduciary", and a "corporation acting in a fiduciary capacity", as such and similar terms are used in the General Statutes, except where it clearly appears from the context in which those terms are used that a different meaning is intended."

SECTION 32. G.S. 53-368(c) is repealed.

SECTION 33. G.S. 53-385 reads as rewritten:

"§ 53-385. **Inventory.**

Within 90 days after the filing of a notice described in ~~G.S. 53-279~~, G.S. 53-379, the Commissioner shall file an inventory of the assets and liabilities, not including assets and liabilities held in accounts of the State trust company, of the State trust company. A copy of the inventory shall be filed with the clerk of the superior court of the county in which the action is pending, and a copy shall be kept on file with the State trust company. The inventory shall be open for inspection during usual business hours, provided that nothing herein shall require the State trust company to remain open unnecessarily."

SECTION 34. G.S. 53-412 reads as rewritten:

"§ 53-412. **Commissioner hearings; appeals.**

(a) This section does not grant a right to a hearing to a person that is not otherwise granted by governing law.

(b) The Commissioner may convene a hearing to receive evidence and argument regarding any matter before the Commissioner for decision or review under the provisions of this Article. The hearing shall be conducted in accordance with Article 3A of Chapter 150B of the General Statutes.

(c) Disputes over decisions and actions of the Commissioner under the provisions of this Article shall be "contested cases" as defined in G.S. 150B-2(2).

(d) Except as expressly provided otherwise by this Chapter, an order of the Commissioner may be appealed, in writing, to the Commission for review, pursuant to ~~G.S. 53-92(d)~~, G.S. 53C-2-6. The Commission may affirm, modify, or reverse a decision of the Commissioner.

(e) Petitions for judicial review from the Commission shall be made to the Wake County Superior Court and shall proceed as provided in ~~G.S. 53-92(d)~~, G.S. 53C-2-6."

SECTION 35. G.S. 54-73 reads as rewritten:

"§ 54-73. **Banking laws applicable.**

~~The statutes relating to banks and banking in this State, that is, G.S. 53-1 to 53-158 [G.S. 53-1 to 53-242],~~ The banking laws as defined in G.S. 53C-1-4(5), insofar as applicable and not in conflict with the provisions hereof shall apply to land mortgage associations."

SECTION 36. G.S. 54B-4(b) reads as rewritten:

"(b) As used in this Chapter, unless the context otherwise requires, the term:

...

(14a) "Commissioner" means the Commissioner of Banks authorized pursuant to ~~G.S. 53-92~~, Article 2 of Chapter 53C of the General Statutes.

...."

SECTION 37. G.S. 54B-34.2(a) reads as rewritten:

"(a) A savings and loan association, upon a majority vote of its board of directors, may apply to the Commissioner of Banks for permission to convert to a bank, as defined under ~~G.S. 53-1(1)~~, G.S. 53C-1-4(4), or to a national bank or other form of depository institution and for certification of appropriate amendments to its certificate of incorporation to effect the change. Upon receipt of an application to so convert, the Commissioner of Banks shall examine all facts connected with the conversion including receipt of approval of the converting institution's plan of conversion by other federal or state regulatory agencies having jurisdiction

over the institution upon completion of its conversion. The depository institution applying for permission to convert shall pay all the expenses and costs of examination."

SECTION 38. G.S. 54B-46(a) reads as rewritten:

"(a) Any bank, as defined in ~~G.S. 53-1~~, G.S. 53C-1-4(4), may convert to a stock association as provided in this section."

SECTION 39. G.S. 54B-47(a) reads as rewritten:

"(a) Any State association, upon a majority vote of its board of directors, may apply to the Commissioner of Banks for permission to merge with any bank, as defined in ~~G.S. 53-1~~, G.S. 53C-1-4(4)."

SECTION 40. G.S. 54B-54 reads as rewritten:

"§ **54B-54. Deputy commissioner of Savings Institutions Division.**

There shall be a deputy commissioner of the Savings Institutions Division as appointed by the Commissioner in ~~G.S. 53-93.1(b)~~, G.S. 53C-2-2. The deputy commissioner authorized by this section shall perform any duties and exercise any powers directed by the Commissioner."

SECTION 41. G.S. 54B-158 reads as rewritten:

"§ **54B-158. Insured or guaranteed loans.**

An association may make insured or guaranteed loans in accordance with the provisions of ~~G.S. 53-45~~, G.S. 53C-5-3."

SECTION 42. G.S. 54C-4(b) reads as rewritten:

"(b) Unless the context otherwise requires, the following definitions apply in this Chapter:

...

(8a) Commissioner. – The Commissioner of Banks authorized pursuant to ~~G.S. 53-92~~, Article 2 of Chapter 53C of the General Statutes.

...."

SECTION 43. G.S. 54C-40(a) reads as rewritten:

"(a) A State savings bank, upon a majority vote of its board of directors, may apply to the Commissioner of Banks for permission to merge with any bank, as defined in ~~G.S. 53-1~~, G.S. 53C-1-4(4), or any association, as defined in G.S. 54B-4."

SECTION 44. G.S. 54C-47(a) reads as rewritten:

"(a) A State savings bank, upon a majority vote of its board of directors, may apply to the Commissioner of Banks for permission to convert to a bank, as defined under ~~G.S. 53-1(1)~~, G.S. 53C-1-4(4), or to a national bank or other form of depository institution and for certification of appropriate amendments to its certificate of incorporation to effect the change. Upon receipt of an application to so convert, the Commissioner of Banks shall examine all facts connected with the conversion, including receipt of approval of the converting institution's plan of conversion by other federal or state regulatory agencies having jurisdiction over the institution upon completion of its conversion. The depository institution applying for permission to convert shall pay all the expenses and costs of examination."

SECTION 45. G.S. 54C-122(e) reads as rewritten:

"(e) A savings bank may make insured or guaranteed loans in accordance with ~~G.S. 53-45~~, G.S. 53C-5-3."

SECTION 46. G.S. 116B-55 reads as rewritten:

"§ **116B-55. Contents of safe deposit box or other safekeeping depository.**

Contents of a safe deposit box or other safekeeping depository held by a financial organization is presumed abandoned if the apparent owner has not claimed the property within the period established by ~~G.S. 53-43.7~~, G.S. 53C-6-13 and shall be delivered to the Treasurer as provided by that section. If the contents include property described in G.S. 116B-53, the Treasurer shall hold the property for the remainder of the applicable period set forth in that section before the property is deemed to be received for purpose of sale under G.S. 116B-65."

SECTION 47. G.S. 120-123 reads as rewritten:

"§ 120-123. Service by members of the General Assembly on certain boards and commissions.

No member of the General Assembly may serve on any of the following boards or commissions:

...

(3a) The State Banking Commission, as established by ~~G.S. 53-92~~ Article 2 of Chapter 53C of the General Statutes.

...."

SECTION 48. G.S. 143-143.9(1) reads as rewritten:

"(1) Bank. – A federally insured financial institution including institutions defined under ~~G.S. 53-1(1)~~, G.S. 53C-1-4(4), savings and loan associations, credit unions, savings banks and other financial institutions chartered under this or any other state law or chartered under federal law."

SECTION 49. G.S. 164-11.6(a) reads as rewritten:

"(a) The chapters, subchapters, articles and sections now comprising Volume 2B of the General Statutes of North Carolina, and Cumulative Supplement thereto, consisting of ~~G.S. 53-1~~ G.S. 53C-1-1 through 82-18, now in force, as amended, are hereby reenacted and designated as Replacement Volume 2B of the General Statutes of North Carolina."

SECTION 50. G.S. 164-11.7(a) reads as rewritten:

"(a) The chapters, subchapters, articles and sections now comprising Volumes 2B and 2C of the General Statutes of North Carolina, and Cumulative Supplements thereto, consisting of ~~G.S. 53-1~~ G.S. 53C-1-1 to G.S. 105-462, now in force, as amended, are hereby reenacted and designated as 1965 Replacement Volumes 2B, 2C and 2D of the General Statutes of North Carolina."

SECTION 51. The repeal of G.S. 53-92, as enacted by Section 1 of this act, becomes effective April 1, 2013.

SECTION 52.(a) G.S. 53C-2-1, as enacted by Section 4 of this act, becomes effective April 1, 2013. In order to reduce the number of members of the State Banking Commission from 22 to 15 as required by G.S. 53C-2-1, the terms of the following members appointed by the Governor shall be terminated:

Dalip Awasthi	(public member)
G. Rick Edwards	(public member)
Scott Falmlen	(public member)
Robert "Robbie" O. Hill	(public member)
Mary Clara Capel	(practical banker)
Larry R. Chavis	(practical banker)
Harold T. Keen	(Savings Institution CEO)

The terms of the remaining members shall expire under the current schedule, and the Governor shall make appointments to fill vacancies as they occur, provided that the Governor shall fill one of the practical banker vacancies with a consumer finance licensee.

SECTION 52.(b) Effective April 1, 2013, the General Assembly shall review the appointment to the State Banking Commission made upon the recommendation of the Speaker of the House of Representatives to determine whether the appointee meets the qualifications for the appointment and shall adjust the appointment accordingly.

SECTION 53. Except as otherwise provided, this act becomes effective October 1, 2012.

In the General Assembly read three times and ratified this the 12th day of June, 2012.

Became law upon approval of the Governor at 3:00 p.m. on the 21st day of June, 2012.

Session Law 2012-57**H.B. 14**

AN ACT AUTHORIZING THE DIRECTOR OF THE BUDGET TO USE REPAIRS AND RENOVATIONS FUNDS TO ENSURE ADEQUATE FUNDING IN THE STATE MEDICAID PROGRAM FOR THE 2011-2012 FISCAL YEAR.

The General Assembly of North Carolina enacts:

SECTION 1.(a) In order to ensure that there is adequate funding in the Medicaid budget for the 2011-2012 fiscal year, the General Assembly directs the Director of the Budget, in conjunction with the State Controller and other necessary State officials, to effectuate the following extraordinary budget adjustment. To the extent necessary for this purpose, up to ninety-four million dollars (\$94,000,000) in funds appropriated to the Repairs and Renovations Reserve Account for the 2011-2012 fiscal year and allocated to State agencies and The University of North Carolina shall be transferred to the State Controller, deposited in the appropriate budget code as determined by the State Controller, and used to ensure payment to Medicaid providers for the remainder of the 2011-2012 fiscal year.

SECTION 1.(b) Subsection (a) of this section applies only to funds required to cover the costs of paying Medicaid providers during the 2011-2012 fiscal year. Transfers under this section shall be limited to the amounts actually required to pay providers through the end of the 2011-2012 fiscal year. To the extent that the full amount of any of the funds transferred is not required to pay providers through the end of the 2011-2012 fiscal year, (i) the authority to transfer funds shall immediately lapse with respect to the unneeded portions and unneeded adjustments; and (ii) any excess funds transferred shall be transferred back to the Repairs and Renovations Reserve Account for reallocation to State agencies.

SECTION 1.(c) On or before October 1, 2012, the Office of State Budget and Management and the Department of Health and Human Services shall report on the measures taken pursuant to this section to the Appropriations/Base Budget Committee of the Senate, the Appropriations Committee of the House of Representatives, and the Joint Legislative Commission on Governmental Operations.

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 9:33 a.m. on the 25th day of June, 2012.

Session Law 2012-58**S.B. 919**

AN ACT TO ALLOW THE CARTERET COUNTY BOARD OF COMMISSIONERS TO REDISTRICT ITS RESIDENCY DISTRICTS FOR THE 2012 PRIMARY AND GENERAL ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 153A-22(e), a resolution adopted under that section before the opening of the 2012 filing period for the Carteret County Board of Commissioners may apply to the 2012 primary and general elections.

SECTION 2. This act applies to Carteret County only.

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, 2012.

Became law on the date it was ratified.

Session Law 2012-59

S.B. 932

AN ACT AUTHORIZING UNION COUNTY TO CONSTRUCT LAW ENFORCEMENT AND HUMAN SERVICES FACILITIES USING DESIGN-BUILD DELIVERY METHODS.

The General Assembly of North Carolina enacts:

SECTION 1. Union County may contract for the design and construction or design, construction, and operation of law enforcement facilities including, without limitation, a jail and emergency dispatch center and facilities ancillary to law enforcement, and human services facilities and facilities ancillary to human services, without being subject to the requirements of Article 3D (Procurement of Architectural, Engineering, and Surveying Services) or Article 8 (Public Contracts) of Chapter 143 of the General Statutes. The authorization includes, if deemed appropriate by the Union County Board of Commissioners, the use of the single-prime contractor method of design and construction, the design-build or design-build-operate method of construction, or a request for proposals and negotiation as an alternative design and construction method.

SECTION 2. Pursuant to the authority to conduct a request for proposals and negotiation as an alternative design and construction method, Union County may enter into build-to-suit capital leases of real or personal property for use as law enforcement facilities or human services facilities. For purposes of this act, (i) the term "build-to-suit capital lease" means a capital lease, as defined by generally accepted accounting principles, regardless of how the parties describe the agreement, which provides for the construction of new facilities or the renovation of existing facilities by a private developer at a cost estimated to be greater than three hundred thousand dollars (\$300,000); and (ii) the term "private developer" means the entity with which the Board of Commissioners enters into a build-to-suit capital lease under the provisions of this act. A build-to-suit capital lease may provide that the private developer is responsible for providing or contracting for construction, repair, or renovation work. The lease may include contractual provisions by the private developer regarding the provision of products, services, and guaranties related to a facility that is the subject of a build-to-suit capital lease. The Board of Commissioners may also enter into a separate agreement or a series of related agreements regarding the provision of products, services, and guaranties related to a facility that is the subject of a build-to-suit capital lease. Construction, repair, or renovation work undertaken or contracted by a private developer is not subject to the requirements of Article 3D or Article 8 of Chapter 143 of the General Statutes.

SECTION 3. In recognition of the potential economic and technical utility of build-to-suit capital leases, which may include in their scope combinations of design, construction, operation, management, and maintenance responsibilities over prolonged periods of time, and the potential desirability of a single point of responsibility for these matters in connection with build-to-suit capital leases, any build-to-suit capital lease may include provisions imposing responsibility on the private developer or any identified affiliated entity for any of the following matters:

- (1) Site selection, land acquisition, and site preparation, including wetlands delineation, archaeological review, and State and local government land-use permitting.
- (2) Facility programming, planning, and design, including both architectural and engineering services.
- (3) Qualification and prequalification of contractors and subcontractors.
- (4) Construction and construction management.
- (5) Financing.

- (6) Facility maintenance and repairs.
- (7) Energy usage guaranties.
- (8) Transfer of ownership of the leased property to Union County at the end of the lease term.
- (9) Any other guaranties, products, and services the Board of Commissioners deem appropriate.

SECTION 4. The Board of Commissioners may enter into predevelopment agreements with a private developer in advance of entering into a build-to-suit capital lease. Predevelopment agreements may include, without limitation, provisions for each of the following: (i) site selection, land acquisition, and site preparation, including services such as wetlands delineation, archaeological review, and State and local government land-use permitting; and (ii) building programming and design, including both architectural and engineering services.

SECTION 5. Notwithstanding any provisions of law to the contrary, the Board of Commissioners may, pursuant to the provisions of G.S. 160A-267, and without limitation as to value of the interest conveyed or the consideration received, sell, lease, or otherwise transfer real or personal property to any private developer for construction, repair, or renovation of the facilities subject to a build-to-suit capital lease. The Board of Commissioners may subject the property to any covenants, conditions, or restrictions it deems necessary to carry out the purposes of this act. The facilities subject to a build-to-suit capital lease may be constructed on real property owned by Union County or real property owned by the private developer.

SECTION 6. A build-to-suit capital lease shall also be subject to the following requirements:

- (1) The lease shall not contain a nonsubstitution clause that restricts the right of the Board of Commissioners to continue to provide a service or activity or to replace or provide a substitute for any property financed or purchased by the capital lease.
- (2) No deficiency judgment may be rendered against Union County or the Board of Commissioners in any action for breach of a contractual obligation in a lease authorized by this act, and the taxing power of Union County is not and may not be pledged directly or indirectly to secure any moneys due under a lease authorized by this act. A build-to-suit capital lease shall state that it does not constitute a pledge of the taxing power or full faith and credit of the Board of Commissioners.
- (3) A build-to-suit capital lease entered into pursuant to this act is subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if it meets the standards provided in G.S. 159-148(a)(2) and G.S. 159-148(a)(3). For purposes of determining whether the standards provided in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar (\$500,000) threshold shall apply.
- (4) The Board of Commissioners, in its discretion, may require the private developer to provide a performance and payment bond for construction work in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes and may require the private developer to provide a bond or other appropriate guaranty to cover any other guaranties, products, or services to be provided by the private developer. In addition, the Board of Commissioners may require that the private developer (i) provide an irrevocable letter of credit for the benefit of laborers and materialmen in an amount not less than five percent (5%) of the total cost of the improvements that are the subject of the build-to-suit capital lease; and (ii) maintain the letter of credit throughout the construction of the project and for the succeeding six-month period.

SECTION 7. Union County shall request proposals from and interview at least five design-build teams, design-build-operate teams, or private developers, as appropriate, that have submitted proposals for a project authorized under the provisions of this act. If five proposals are not received and the project has been publicly advertised for a minimum of 30 days, the County may proceed with the proposal or proposals received. If it determines to proceed, the Board of Commissioners shall award the contract to the best qualified contractor or private developer for the project as deemed by the Board of Commissioners, in its sole discretion, to be in the county's best interests under all the circumstances, taking into account (i) the knowledge, skill, and reputation of the contractor or private developer and its associated persons; (ii) the time, cost, and quality of design, engineering, and construction, including the time required to begin and the time required to complete a particular activity; (iii) occupancy costs, including lease payments, life-cycle maintenance, repair, and energy costs; (iv) 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; and (v) any other factors the Board of Commissioners deems relevant.

SECTION 8. This act is effective when it becomes law and expires five years after the effective date.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-60

S.B. 934

AN ACT TO PERMIT THE LOWER CAPE FEAR WATER AND SEWER AUTHORITY TO UTILIZE THE DESIGN-BUILD METHOD OF CONSTRUCTION FOR A FOURTEEN-MILE PARALLEL WATER TRANSMISSION LINE WITHIN ITS SERVICE AREA.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32, the Lower Cape Fear Water and Sewer Authority may use the design-build method of construction for the construction of a 14-mile parallel water transmission line within its service area. The Authority shall seek to prequalify and solicit at least three design-build teams to bid on the project and shall receive at least three sealed proposals from those teams for each project. The proposals shall not require the design-build team to submit project design solutions. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, the Authority may proceed with the proposals received. The Authority shall interview at least two of the design-build teams that submit proposals. The Authority shall award the contract to the best qualified team, taking into consideration in its selection the time of completion of any project, compliance with the provisions of G.S. 143-128.2, and the cost of the project.

SECTION 2. Notwithstanding Article 8 of Chapter 143 of the General Statutes, the Lower Cape Fear Water and Sewer Authority may contract for the construction of a 14-mile parallel water transmission line within its service area. The Authority shall award the contract to the best qualified contractor, taking into consideration in its selection the time of completion of the project and the cost of the project.

SECTION 3. This act is effective when it becomes law and expires December 31, 2015.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-61**H.B. 1032**

AN ACT REMOVING CERTAIN DESCRIBED NONCONTIGUOUS PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF MORGANTON.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Morganton:

Tract 1: All that property designated as lots 1, 2, and 3 (2.57 acres total) as shown on map recorded in Plat Book 39, pages 101-102, recorded in the Burke County Register of Deeds; said property being located in Morganton Township, Burke County, and also assigned Burke County Tax Record Numbers 60305, 35234, and 60306.

Tract 2: All that property designated as Parcel "A" (23.87 acres) as shown on map recorded in Plat Book 37, Page 17, in the Burke County Register of Deeds; said property being located in Morganton Township, Burke County, and also being assigned Burke County Tax Record Number 59930.

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

SECTION 3. The property removed from the corporate limits of the City of Morganton by Section 1 of this act shall remain under the jurisdiction of that city for the purposes of Article 19 of Chapter 160A of the General Statutes under G.S. 160A-360 until removed from that jurisdiction as provided in G.S. 160A-360.

SECTION 4. This act becomes effective June 30, 2012.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-62**H.B. 1088**

AN ACT CONCERNING THE DIVISION BETWEEN GRAHAM AND SWAIN COUNTIES OF TVA PAYMENTS IN LIEU OF TAXES, AND CLARIFYING THE COMMON BOUNDARY BETWEEN THOSE COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-458 reads as rewritten:

"§ 105-458. **Apportionment of payments in lieu of taxes between local units.**

The payments received by the State and local governments from the Tennessee Valley Authority in lieu of taxes under section 13 of the Act of Congress creating it, and as amended, shall be apportioned between the local governments in which the property is owned or an operation is carried on, on the basis of each local government's percentage of the total value of the Authority's property in the State, determined as hereinafter provided: Provided, however, that the minimum annual payment to any local government from said fund, including the amounts paid direct to said local government by the Authority, shall not be less than the amount of annual actual tax loss to such local government based upon the two-year average on said property next prior to it being taken over by the ~~Authority~~ Authority; Provided further that as to the apportionment of funds between Graham County and Swain County:

- (1) The dam itself will be allocated and assessed between Graham and Swain Counties based on the location of survey marker 1475 as located on the power house.
- (2) The two generators and all other equipment located in Graham County will be assessed in Graham County.
- (3) Two-thirds of the generator building will be assessed in Graham County and the remaining one-third will be assessed in Swain County.
- (4) The remaining one generator and all other equipment located in Swain County will be assessed in Swain County.
- (5) The nearby transmission facilities, which are located in Swain County, will be assessed in Swain County.
- (6) All off-site property (such as off-site transmission lines and land) will be assessed in the county where such property is located."

SECTION 2. Notwithstanding Chapter 94 of the Public Laws of 1870-71 and Chapters 77 and 154 of the Public Laws of 1871-72, the common boundary line between Graham County and Swain County is the center line of the Little Tennessee River for the full length of the boundary between the two counties, the line running through the 1944 survey marker, being survey marker 1475 as located on the power house.

SECTION 3. This act applies to Graham and Swain Counties only.

SECTION 4. This act becomes effective June 1, 2012.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-63

H.B. 1138

AN ACT TO PERMIT THE COUNTY OF DAVIDSON TO UTILIZE THE DESIGN-BUILD METHOD OF CONSTRUCTION AND RENOVATION OF COUNTY BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32, Davidson County may use the design-build method of construction for up to five projects involving the construction or renovation of buildings owned by the County. The County shall seek to prequalify and solicit at least five design-build teams to bid on the project and shall receive at least three sealed proposals from those teams for each project. The proposals shall not require the design-build team to submit project design solutions. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, the County may proceed with the proposals received. The County shall interview at least two of the design-build teams that submit proposals. The County shall award the contract to the best qualified team, taking into consideration in its selection the time of completion of any project, compliance with the provisions of G.S. 143-128.2, and the cost of the project.

SECTION 2. This act is effective when it becomes law and expires on June 30, 2014.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-64

H.B. 971

AN ACT TO AUTHORIZE LEASE TERMINATION FOR A SERVICE MEMBER WHO DIES WHILE ON ACTIVE DUTY, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON MILITARY AFFAIRS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-45 reads as rewritten:

"§ 42-45. **Early termination of rental agreement by military ~~personnel~~personnel, surviving family members, or lawful representative.**

(a) Any member of the Armed Forces of the United States who (i) is required to move pursuant to permanent change of station orders to depart 50 miles or more from the location of the dwelling unit, or (ii) is prematurely or involuntarily discharged or released from active duty with the Armed Forces of the United States, may terminate the member's rental agreement for a dwelling unit by providing the landlord with a written notice of termination to be effective on a date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer.

(a1) Any member of the Armed Forces of the United States who is deployed with a military unit for a period of not less than 90 days may terminate the member's rental agreement for a dwelling unit by providing the landlord with a written notice of termination. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer. Termination of a lease pursuant to this subsection is effective 30 days after the first date on which the next rental payment is due or 45 days after the landlord's receipt of the notice, whichever is shorter, and payable after the date on which the notice of termination is delivered.

(a2) Upon termination of a rental agreement under this section, the tenant is liable for the rent due under the rental agreement prorated to the effective date of the termination payable at such time as would have otherwise been required by the terms of the rental agreement. The tenant is not liable for any other rent or damages due to the early termination of the tenancy except the liquidated damages provided in subsection (b) of this section. If a member terminates the rental agreement pursuant to this section 14 or more days prior to occupancy, no damages or penalties of any kind shall be due.

(a3) If a member of the Armed Forces of the United States dies while on active duty, then an immediate family member, or a lawful representative of the member's estate, may terminate the member's rental agreement for a dwelling unit by providing the landlord with a written notice of termination to be effective on the date described in subsection (a1) of this section. A copy of the death certificate, official military personnel casualty report, or letter from the commanding officer verifying the member's death must accompany the notice for this subsection to be effective. Termination of the member's lease obligations under this subsection shall also terminate the lease obligations of any cotenants who are immediate family members. If the member was a cotenant with a person who is not an immediate family member, then the termination shall relate only to the obligation of the member under the rental agreement. The prorated charges in subsection (a2) of this section and the liquidated damages provisions of subsection (b) of this section shall apply to any claims against the member's estate.

(b) In consideration of early termination of the rental agreement, the tenant is liable to the landlord for liquidated damages provided the tenant has completed less than nine months of the tenancy and the landlord has suffered actual damages due to loss of the tenancy. The liquidated damages shall be in an amount no greater than one month's rent if the tenant has completed less than six months of the tenancy as of the effective date of termination, or one-half of one month's rent if the tenant has completed at least six but less than nine months of the tenancy as of the effective date of termination.

(c) The provisions of this section may not be waived or modified by the agreement of the parties under any circumstances. Nothing in this section shall affect the rights established by G.S. 42-3."

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:02 p.m. on the 26th day of June, 2012.

Session Law 2012-65

H.B. 1028

AN ACT TO REQUIRE THE NORTH CAROLINA APPRAISAL BOARD TO REPORT THE RECORDS OF APPRAISAL MANAGEMENT COMPANIES TO THE NORTH CAROLINA DEPARTMENT OF REVENUE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93E-2-9 is amended by adding the following new subsection to read:

"§ **93E-2-9. Records.**

(a) The Board shall maintain a list of all applicants for registration under this Article that includes for each applicant the date of application, the name and primary business location of the applicant, and whether the registration was granted or refused.

(b) The Board shall maintain a current roster showing the names and places of business of all registered appraisal management companies that lists the appraisal management companies' respective officers and directors. The rosters shall: (i) be kept on file in the office of the Board; (ii) contain information regarding all orders or other action taken against the company, its officers, and other persons; and (iii) be open to public inspection.

(b1) The Board shall report annually by December 31 to the Department of Revenue the following information about registered appraisal management companies:

(1) Name and name used to do business in the State.

(2) Main address of company.

(3) Name and address of agent for service of process in the State if not domiciled in the State.

(4) Legal structure, such as domestic corporation, foreign corporation, domestic partnership, or foreign partnership.

(5) Employer identification number or social security number.

(6) Secretary of State identification number if required.

(c) Every registered appraisal management company shall maintain the accounts, correspondence, memoranda, papers, books, and other records related to services provided by the appraisal management company as prescribed in rules adopted by the Board, including in electronic form. All records shall be preserved for five years unless the Board, by rule, prescribes otherwise for particular types of records.

(d) If the information contained in any document filed with the Board is or becomes inaccurate or incomplete in any material respect, the appraisal management company shall promptly file a correcting amendment to the information contained in the document."

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:04 p.m. on the 26th day of June, 2012.

Session Law 2012-66

H.B. 1055

AN ACT RELATING TO PROVIDER ENDORSEMENT FUNCTIONS OF LOCAL MANAGEMENT ENTITIES, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-114 reads as rewritten:

"§ 122C-114. **Powers and duties of the Commission.**

(a) The Commission shall have authority as provided by this Chapter, Chapters 90 and 148 of the General Statutes, and by G.S. 143B-147.

(b) The Commission shall adopt rules regarding all of the following:

- (1) The development of a process for screening, triage, and referral, including a uniform portal process, for implementation by the Secretary as required under G.S. 122C-112.1(14).
- (2) LME monitoring ~~and endorsement~~ of providers of mental health, developmental disabilities, and substance abuse services.
- (3) LME provision of technical assistance to providers of mental health, developmental disabilities, and substance abuse services.
- (4) The requirements of a qualified public or private provider as that term is used in G.S. 122C-141. In adopting rules under this subsection, the Commission shall take into account the need to ensure fair competition among providers."

SECTION 2. 122C-115.4(b)(2) reads as rewritten:

"(2) Provider ~~endorsement~~, monitoring, technical assistance, capacity development, and quality control. ~~An LME may remove a provider's endorsement if a provider fails to do any of the following:~~

- a. ~~Meet defined quality criteria.~~
- b. ~~Adequately document the provision of services.~~
- e. ~~Provide required staff training.~~
- d. ~~Provide required data to the LME.~~
- e. ~~Allow the LME access in accordance with rules established under G.S. 143B-139.1.~~
- f. ~~Allow the LME access in the event of an emergency or in response to a complaint related to the health or safety of a client.~~

If at anytime the LME has reasonable cause to believe a violation of licensure rules has occurred, the LME shall make a referral to the Division of Health Service Regulation. If at anytime the LME has reasonable cause to believe the abuse, neglect, or exploitation of a client has occurred, the LME shall make a referral to the local Department of Social Services, Child Protective Services Program, or Adult Protective Services Program."

SECTION 3. G.S. 122C-151.4(a) reads as rewritten:

"(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, ~~or whose application for endorsement has been denied by an area authority or county program year.~~
- (3) "Former contractor" means a person who had a contract during the previous fiscal year."

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

In the General Assembly read three times and ratified this the 20th day of June, 2012.

Became law upon approval of the Governor at 4:04 p.m. on the 26th day of June, 2012.

Session Law 2012-67

H.B. 1056

AN ACT TO LIMIT ACCESS TO IDENTIFYING INFORMATION OF MINOR PARTICIPANTS IN PROGRAMS FUNDED BY THE NORTH CAROLINA PARTNERSHIP FOR CHILDREN OR OTHER LOCAL PARTNERSHIPS, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 132-1.12 is rewritten to read:

"§ 132-1.12. **Limited access to identifying information of minors participating in local government parks and recreation ~~programs, programs and programs funded by the North Carolina Partnership for Children, Inc., or a local partnership.~~**

(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, a program funded by the North Carolina Partnership for Children, Inc., under G.S. 143B-168.12, or a program funded by a local partnership under G.S. 143B-168.14, 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 20th day of June, 2012.

Became law upon approval of the Governor at 4:07 p.m. on the 26th day of June, 2012.

Session Law 2012-68

H.B. 1066

AN ACT TO CLARIFY, MODIFY, AND CONSOLIDATE THE LAW APPLICABLE TO THE PASSING OF TITLE TO INTERESTS IN REAL AND PERSONAL PROPERTY DEvised BY A WILL AND THE RIGHTS OF LIEN CREDITORS AND PURCHASERS FOR VALUE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 28A-2A-1 reads as rewritten:

"§ 28A-2A-1. Executor may apply for probate.

Any executor named in a will may, at any time after the death of the testator, apply to the clerk of the superior court, having jurisdiction, to have the same will admitted to probate. ~~Such will shall not be valid or effective to pass real estate or personal property as against innocent purchasers for value and without notice, unless it is probated or offered for probate within two years after the death of the testator or devisor or prior to the time of approval of the final account of a duly appointed administrator of the estate of the deceased, whichever time is earlier. If such will is fraudulently suppressed, stolen or destroyed, or has been lost, and an action or proceeding shall be commenced within two years from the death of the testator or devisor to obtain said will or establish the same as provided by law, then the limitation herein set out shall only begin to run from the termination of said action or proceeding, but not otherwise."~~

SECTION 2. G.S. 31-39 reads as rewritten:

"§ 31-39. Probate necessary to pass title; rights of lien creditors and purchasers; recordation in county where land lies; rights of innocent purchasers; real property lies.

~~No will shall be effectual to pass real or personal estate unless it shall have been duly proved and allowed in the probate court of the proper county, and a duly certified copy thereof shall be recorded in the office of the superior court clerk of the county wherein the land is situate, and the probate of a will devising real estate shall be conclusive as to the execution thereof against the heirs and devisees of the testator, whenever the probate thereof under the like circumstances, would be conclusive against the next of kin and legatees of the testator: Provided, that the probate and registration of any will shall not affect the rights of innocent purchasers for value from the heirs at law of the testator when such purchase is made more than two years after the death of such testator or when such purchase is made after the filing of the final account by the duly authorized administrator of the decedent and the approval thereof by the clerk of the superior court having jurisdiction of the estate. Such conveyances, if made before the expiration of the time required by this section to have elapsed in order for same to be valid against the heirs and devisees of the testator, shall, upon the expiration of such time, become good and valid to the same effect as if made after the expiration of such time, unless in the meantime a proceeding shall have been instituted in the proper court to probate the will of the testator.~~

(a) A duly probated will is effective to pass title to real and personal property.

(b) A will is not effective to pass title to real or personal property as against lien creditors or purchasers for valuable consideration from the intestate heirs at law of a decedent, unless the will is probated or offered for probate before the earlier of (i) the date of the approval by the clerk of the superior court having jurisdiction of the decedent's estate of the final account filed by the personal representative of the decedent's estate, or (ii) the date that is two years from the date of death of the decedent. If the will is fraudulently suppressed, stolen, or destroyed, or is lost, and an action or proceeding is instituted within the time limitation set forth in this subsection to obtain that will or establish that will as provided by law, the time limitation under this subsection begins to run from the termination of that action or proceeding.

(c) A will duly probated in one county of this State is not effective to pass title to an interest in real property located in any other county of this State as against lien creditors or purchasers for valuable consideration from the intestate heirs at law of a decedent unless a certified copy of the will is filed in the office of the clerk of superior court in the county where the real property lies within the time limitation set forth in subsection (b) of this section.

(d) A conveyance made by the intestate heirs at law of a decedent before the expiration of the time limitation set forth in subsection (b) of this section shall, upon the expiration of that time, become effective to the same extent as if the conveyance were made after the expiration of that time, unless before the expiration of that time, a proceeding is instituted in the proper court to probate a will of the decedent."

SECTION 3. This act is effective October 1, 2012, and applies to estates of decedents dying on or after that date.

In the General Assembly read three times and ratified this the 20th day of June, 2012.

Became law upon approval of the Governor at 4:08 p.m. on the 26th day of June, 2012.

Session Law 2012-69

H.B. 1067

AN ACT TO CONFORM THE LAW GOVERNING CO-OWNERS WITH RIGHT OF SURVIVORSHIP UNDER THE SIMULTANEOUS DEATH ACT TO THE LAW GOVERNING THE HOLDING OF UNEQUAL SHARES IN A JOINT TENANCY WITH RIGHT OF SURVIVORSHIP, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 28A-24-3 reads as rewritten:

"§ 28A-24-3. **Co-owners with right of survivorship; requirement of survival by 120 hours.**

~~Except as otherwise provided in this Article, (i) if it is not established by clear and convincing evidence that one of two co-owners with right of survivorship survived the other co-owner by at least 120 hours, one half of the property passes as if one had survived by at least 120 hours and one half as if the other had survived by at least 120 hours and (ii) if there are more than two co-owners with right of survivorship and it is not established by clear and convincing evidence that at least one of them survived the others by at least 120 hours, the property passes to the estates of each of the co-owners in the proportion that one bears to the whole number of co-owners.~~

Except as otherwise provided in this Article:

- (1) If there are two or more co-owners with right of survivorship and it is not established by clear and convincing evidence that at least one of them survived the other or others by at least 120 hours, then, unless the governing instrument provides otherwise, each co-owner's pro rata interest in the property passes as if that co-owner had survived all other co-owners by at least 120 hours.
- (2) If there are two or more co-owners with right of survivorship and it is established by clear and convincing evidence that at least one of them survived the other or others by at least 120 hours, then, unless the governing instrument provides otherwise, the pro rata interest or interests of the deceased owner or owners who are not established by clear and convincing evidence to have survived by at least 120 hours passes to (i) the remaining owner if only one or (ii) if more than one, then to those remaining owners according to the pro rata interest of each."

SECTION 2. G.S. 41-2(b) reads as rewritten:

"(b) The interests of the grantees holding property in joint tenancy with right of survivorship shall be deemed to be equal unless otherwise specified in the conveyance. Any joint tenancy interest held by a husband and wife, unless otherwise specified, shall be deemed to be held as a single tenancy by the entirety, which shall be treated as a single party when determining interests in the joint tenancy with right of survivorship. ~~If joint~~Joint tenancy interests among ~~three-two~~ or more joint tenants holding property in joint tenancy with right of survivorship are held in unequal shares, upon the death of one joint tenant, the share of the deceased joint tenant shall be divided among the surviving joint tenants according to their respective pro rata interest and not equally, unless the creating instrument provides otherwise.subject to the provisions of G.S. 28A-24-3 upon the death of one or more of the joint tenants.

This subsection shall apply to any conveyance of an interest in property created at any time that explicitly sought to create unequal ownership interests in a joint tenancy with right of survivorship. Distributions made prior to the enactment of this subsection that were made in equal amounts from a joint tenancy with the right of survivorship that sought to create unequal ownership shares shall remain valid and shall not be subject to modification on the basis of this subsection."

SECTION 3. This act is effective October 1, 2012.

In the General Assembly read three times and ratified this the 20th day of June, 2012.

Became law upon approval of the Governor at 4:10 p.m. on the 26th day of June, 2012.

Session Law 2012-70

H.B. 1068

AN ACT TO AMEND ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE RELATING TO SECURED TRANSACTIONS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

PART I. 2010 UCC ARTICLE 9 AMENDMENTS.

SECTION 1. G.S. 25-9-102(a) reads as rewritten:

"§ 25-9-102. **Definitions and index of definitions.**

(a) Article 9 definitions. – In this Article:

...

(7) "Authenticate" means:

a. To sign; or

b. ~~To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.~~ With present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.

...

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

...

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

...

(70a) "Public organic record" means a record that is available to the public for inspection and is:

a. A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any

record filed with or issued by the state or the United States which amends or restates the initial record;

- b. An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or
- c. A record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or the United States which amends or restates the name of the organization.

...

- (73) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.

...."

SECTION 2. G.S. 25-9-105 reads as rewritten:

"§ 25-9-105. **Control of electronic chattel paper.**

(a) General Rule: Control of Electronic Chattel Paper. – A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

(b) Specific Facts Giving Control. – A system satisfies subsection (a) of this section if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

- (1) A single authoritative copy of the record or records exists which is unique, ~~identifiable~~ identifiable, and, except as otherwise provided in subdivisions (4), (5), and (6) of this section, unalterable;
- (2) The authoritative copy identifies the secured party as the assignee of the record or records;
- (3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;
- (4) Copies or ~~revisions~~ amendments that add or change an identified assignee of the authoritative copy can be made only with the ~~participation~~ consent of the secured party;
- (5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and
- (6) Any ~~revision~~ amendment of the authoritative copy is readily identifiable as ~~an authorized or unauthorized revision~~ authorized or unauthorized."

SECTION 3. G.S. 25-9-307(f) reads as rewritten:

"(f) Location of registered organization organized under federal law; bank branches and agencies. – Except as otherwise provided in subsection (i) of this section, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

- (1) In the state that the law of the United States designates, if the law designates a state of location;

- (2) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of ~~location~~; location, including by designating its main office, home office, or other comparable office; or
- (3) In the District of Columbia, if neither subdivision (1) nor subdivision (2) of this subsection applies."

SECTION 4. G.S. 25-9-311(a) reads as rewritten:

"(a) Security interest subject to other law. – Except as otherwise provided in subsection (d) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

- (1) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt G.S. 25-9-310(a);
- (2) A ~~certificate of title~~ statute of this State covering automobiles or other goods that provides for a security interest to be indicated on ~~the~~ a certificate of title as a condition to or result of perfection of the security interest, including G.S. 20-58 and G.S. 75A-41; or
- (3) A ~~certificate of title~~ statute of another jurisdiction which provides for a security interest to be indicated on ~~the~~ a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property."

SECTION 5.(a) The catch line of G.S. 25-9-316 reads as rewritten:

"§ 25-9-316. ~~Continued perfection of security interest following~~Effect of change in governing law."

SECTION 5.(b) G.S. 25-9-316 is amended by adding two new subsections to read:

"(h) Effect on Filed Financing Statement of Change in Governing Law. – The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

- (1) A financing statement filed before the change pursuant to the law of the jurisdiction designated in G.S. 25-9-301(1) or G.S. 25-9-305(c) is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location.
- (2) If a security interest perfected by a financing statement that is effective under subdivision (1) of this subsection becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in G.S. 25-9-301(1) or G.S. 25-9-305(c) or the expiration of the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) Effect of Change in Governing Law on Financing Statement Filed Against Original Debtor. – If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in G.S. 25-9-301(1) or G.S. 25-9-305(c) and the new debtor is located in another jurisdiction, the following rules apply:

- (1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under G.S. 25-9-203(d), if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

- (2) A security interest perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in G.S. 25-9-301(1) or G.S. 25-9-305(c) or the expiration of the four-month period remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value."

SECTION 6. G.S. 25-9-317 reads as rewritten:

"§ 25-9-317. **Interests that take priority over or take free of security interest or agricultural lien.**

(a) Conflicting security interests and rights of lien creditors. – A security interest or agricultural lien is subordinate to the rights of:

- (1) A person entitled to priority under G.S. 25-9-322; and
- (2) Except as otherwise provided in subsection (e) of this section, a person that becomes a lien creditor before the earlier of the time:
 - a. The security interest or agricultural lien is perfected; or
 - b. One of the conditions specified in G.S. 25-9-203(b)(3) is met and a financing statement covering the collateral is filed.

(b) Buyers that receive delivery. – Except as otherwise provided in subsection (e) of this section, a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a ~~security certificate~~certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Lessees that receive delivery. – Except as otherwise provided in subsection (e) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) Licensees and buyers of certain collateral. – A licensee of a general intangible or a buyer, other than a secured party, of ~~accounts, electronic chattel paper, electronic documents, general intangibles, or investment property~~collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Purchase-money security interest. – Except as otherwise provided in G.S. 25-9-320 and G.S. 25-9-321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing."

SECTION 7. G.S. 25-9-326 reads as rewritten:

"§ 25-9-326. **Priority of security interests created by new debtor.**

(a) Subordination of security interest created by new debtor. – Subject to subsection (b) of this section, a security interest that is created by a new debtor which is in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that is effective solely under G.S. 25-9-508 in collateral in which a new debtor has or acquires rights~~would be ineffective to perfect the security interest but for the application of G.S. 25-9-316(i)(1) or G.S. 25-9-508~~ is subordinate to a security interest in the same collateral which is perfected other than by such a filed financing ~~statement that is effective solely under G.S. 25-9-508~~statement.

(b) Priority under other provisions; multiple original debtors. – The other provisions of this Part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements ~~that are effective solely under G.S. 25-9-508~~ described in subsection (a) of this section. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound."

SECTION 8. G.S. 25-9-406 reads as rewritten:

"§ 25-9-406. Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.

(a) Discharge of account debtor; effect of notification. – Subject to subsections (b) through (i) of this section, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) When notification ineffective. – Subject to subsection (h) of this section, notification is ineffective under subsection (a) of this section:

- (1) If it does not reasonably identify the rights assigned;
- (2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this Article; or
- (3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:
 - a. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;
 - b. A portion has been assigned to another assignee; or
 - c. The account debtor knows that the assignment to that assignee is limited.

(c) Proof of assignment. – Subject to subsection (h) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a) of this section.

(d) Term restricting assignment generally ineffective. – Except as otherwise provided in subsection (e) of this section and G.S. 25-2A-303 and ~~G.S. 25-9-407~~ G.S. 25-9-407, and subject to subsection (h) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

- (1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or
- (2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Inapplicability of subsection (d) to certain sales. – Subsection (d) of this section does not apply to the sale of a payment intangible or promissory ~~note-note~~, other than a sale pursuant to a disposition under G.S. 25-9-610 or an acceptance of collateral under G.S. 25-9-620.

(f) Legal restrictions on assignment generally ineffective. – Except as otherwise provided in G.S. 25-2A-303 and G.S. 25-9-407 and subject to subsections (h) and (i) of this section, a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

- (1) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or
- (2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subdivision (b)(3) not waivable. – Subject to subsection (h) of this section, an account debtor may not waive or vary its option under subdivision (b)(3) of this section.

(h) Rule for individual under other law. – This section is subject to law other than this Article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) Inapplicability. – This section does not apply to an assignment of a health-care-insurance receivable. Subsection (f) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) of this section: ~~North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina Firemen's and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes).~~

- (1) North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes).
- (2) North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes).
- (3) North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes).
- (4) North Carolina Firemen's and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes).
- (5) Employment Security Law (Chapter 96 of the General Statutes).
- (6) North Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes).
- (7) Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes).
- (8) North Carolina State Lottery Act (Chapter 18C of the General Statutes).

(j) Section prevails over inconsistent law. – Except to the extent otherwise provided in subsection (i) of this section, this section prevails over any inconsistent provision of an existing or future statute, rule, or regulation of this State unless the provision is contained in a statute of this State, refers expressly to this section, and states that the provision prevails over this section."

SECTION 9. G.S. 25-9-408 reads as rewritten:

"§ **25-9-408. Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.**

(a) Term restricting assignment generally ineffective. – Except as otherwise provided in subsection (b) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

- (1) Would impair the creation, attachment, or perfection of a security interest; or
- (2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Applicability of subsection (a) to sales of certain rights to payment. – Subsection (a) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory ~~note~~note, other than a sale pursuant to a disposition under G.S. 25-9-610 or an acceptance of collateral under G.S. 25-9-620.

(c) Legal restrictions on assignment generally ineffective. – A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

- (1) Would impair the creation, attachment, or perfection of a security interest; or
- (2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) Limitation on ineffectiveness under subsections (a) and (c). – To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) of this section would be effective under law other than this Article but is ineffective under subsection (a) or (c) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

- (1) Is not enforceable against the person obligated on the promissory note or the account debtor;
- (2) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

- (3) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;
- (4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;
- (5) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and
- (6) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) Section prevails over inconsistent law. – Except to the extent otherwise provided in subsection (f) of this section, this section prevails over any inconsistent provision of an existing or future statute, rule, or regulation of this State unless the provision is contained in a statute of this State, refers expressly to this section, and states that the provision prevails over this section.

(f) Inapplicability. – Subsection (c) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (c) of this section: ~~North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina Firemen's and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes).~~

- (1) North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes).
- (2) North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes).
- (3) North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes).
- (4) North Carolina Firemen's and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes).
- (5) Employment Security Law (Chapter 96 of the General Statutes).
- (6) North Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes).
- (7) Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes).
- (8) North Carolina State Lottery Act (Chapter 18C of the General Statutes)."

SECTION 10. G.S. 25-9-502(c) reads as rewritten:

"(c) Record of mortgage as financing statement. – A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

- (1) The record indicates the goods or accounts that it covers;
- (2) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
- (3) The record satisfies the requirements for a financing statement in this ~~section~~ section, but:

- a. The record need not indicate ~~other than an indication~~ that it is to be filed in the real property records; and
 - b. The record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom G.S. 25-9-503(a)(4) applies; and
- (4) The record is duly recorded."

SECTION 11. G.S. 25-9-503 reads as rewritten:

"§ 25-9-503. Name of debtor and secured party.

(a) Sufficiency of debtor's name. – A financing statement sufficiently provides the name of the debtor:

- (1) Except as otherwise provided in subdivision (3) of this subsection, ~~If if the debtor is a registered organization, organization or the collateral is held in a trust that is a registered organization,~~ only if the financing statement provides the name ~~of the debtor indicated~~ that is stated to be the registered organization's name on the public organic record of most recently filed with or issued or enacted by the debtor's registered organization's jurisdiction of organization which shows the debtor to have been organized; purports to state, amend, or restate the registered organization's name;
- (2) Subject to subsection (f) of this section, ~~If if the debtor is a decedent's estate, collateral is being administered by the personal representative of a decedent,~~ only if the financing statement ~~provides~~ provides, as the name of the debtor, the name of the decedent ~~and~~ and, in a separate part of the financing statement, indicates that the ~~debtor is an estate; collateral is being administered by a personal representative;~~
- (3) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:
 - a. Provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and
 - b. Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; andIf the collateral is held in a trust that is not a registered organization, only if the financing statement:
 - a. Provides, as the name of the debtor:
 - 1. If the organic record of the trust specifies a name for the trust, the name specified; or
 - 2. If the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and
 - b. In a separate part of the financing statement:
 - 1. If the name is provided in accordance with sub-subdivision a.1. of this subdivision, indicates that the collateral is held in a trust; or
 - 2. If the name is provided in accordance with sub-subdivision a.2. of this subdivision, provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

- (4) Subject to subsection (g) of this section, if the debtor is an individual to whom this State has issued a drivers license or special identification card that has not expired, only if the financing statement provides the name of the individual which is indicated on the drivers license or special identification card;
- (5) If the debtor is an individual to whom subdivision (a)(4) of this section does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and
- ~~(4)(6)~~ In other cases:
- a. If the debtor has a name, only if ~~it~~ the financing statement provides the ~~individual~~ or organizational name of the debtor; and
 - b. If the debtor does not have a name, only if ~~it~~ the financing statement provides the names of the partners, members, associates, or other persons comprising the ~~debtor~~ debtor, in a manner that each name provided would be sufficient if the person named were the debtor.
- (b) Additional debtor-related information. – A financing statement that provides the name of the debtor in accordance with subsection (a) of this section is not rendered ineffective by the absence of:
- (1) A trade name or other name of the debtor; or
 - (2) Unless required under ~~sub-subdivision (a)(4)b~~ sub-subdivision (a)(6)b of this section, names of partners, members, associates, or other persons comprising the debtor.
- (c) Debtor's trade name insufficient. – A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.
- (d) Representative capacity. – Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.
- (e) Multiple debtors and secured parties. – A financing statement may provide the name of more than one debtor and the name of more than one secured party.
- (f) Name of Decedent. – The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subdivision (a)(2) of this section.
- (g) Multiple Drivers Licenses or Special Identification Cards. – If this State has issued to an individual more than one drivers license or special identification card of a kind described in subdivision (a)(4) of this section, the one that was issued most recently is the one to which subdivision (a)(4) of this section refers.
- (h) Definition. – In this section, the "name of the settlor or testator" means:
- (1) If the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or
 - (2) In other cases, the name of the settlor or testator indicated in the trust's organic record."
- SECTION 12.** G.S. 25-9-507(c) reads as rewritten:
- "(c) Change in debtor's name. – If a ~~debtor so changes its~~ the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under G.S. 25-9-503(a) so that the financing statement becomes seriously misleading under G.S. 25-9-506:
- (1) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the ~~change;~~ filed financing statement becomes seriously misleading; and

- (2) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the ~~change, filed financing statement becomes seriously misleading,~~ unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after ~~the change, the financing statement became seriously misleading."~~

SECTION 13. G.S. 25-9-515(f) reads as rewritten:

"(f) Transmitting utility financing statement. – If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed."

SECTION 14. G.S. 25-9-516(b) reads as rewritten:

"(b) Refusal to accept record; filing does not occur. – Filing does not occur with respect to a record that a filing office refuses to accept because:

...

- (3) The filing office is unable to index the record because:
- a. In the case of an initial financing statement, the record does not provide a name for the debtor;
 - b. In the case of an amendment or ~~correction~~-information statement, the record:
 1. Does not identify the initial financing statement as required by G.S. 25-9-512 or G.S. 25-9-518, as applicable; or
 2. Identifies an initial financing statement whose effectiveness has lapsed under G.S. 25-9-515;
 - c. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's ~~last name;~~surname; or
 - d. In the case of a record filed in the filing office described in G.S. 25-9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

...

- (5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
- a. Provide a mailing address for the debtor; or
 - b. Indicate whether the name provided as the name of the debtor is the name of an individual or an organization; ~~or~~
 - e. ~~If the financing statement indicates that the debtor is an organization, provide:~~
 1. ~~A type of organization for the debtor;~~
 2. ~~A jurisdiction of organization for the debtor; or~~
 3. ~~An organizational identification number for the debtor or indicate that the debtor has none;~~

...

- (7) In the case of a continuation statement, the record is not filed within the six-month period prescribed by G.S. 25-9-515(d); or
- (8) In the case of a record presented for filing at the Department of the Secretary of State, the Secretary of State determines that the record is not created pursuant to this Chapter or is otherwise intended for an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person."

SECTION 15. G.S. 25-9-518 reads as rewritten:

"§ 25-9-518. Claim concerning inaccurate or wrongfully filed record.

(a) ~~Correction statement.~~Statement With Respect to Record Indexed Under Person's Name. – A person may file in the filing office a ~~correction~~an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) ~~Sufficiency~~Contents of correction statement.~~Statement Under Subsection (a).~~ – ~~A correction~~An information statement under subsection (a) of this section must:

- (1) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;
- (2) Indicate that it is a ~~correction~~an information statement; and
- (3) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed. ~~A correction~~An information statement that is subject to the provisions of subsection (b1) of this section shall include a written certification, under oath, by the person that the contents of the ~~correction~~information statement are true and accurate to the best of the person's knowledge.

(b1) In the case of a ~~correction~~an information statement alleging that a previously filed record was wrongfully filed and that it should have been rejected under G.S. 25-9-516(b)(8), the Secretary of State shall, without undue delay, determine whether the contested record was wrongfully filed and should have been rejected. In order to determine whether the record was wrongfully filed, the Secretary of State may require the person filing the ~~correction~~information statement and the secured party to provide any additional relevant information requested by the Secretary of State, including an original or a copy of any security agreement that is related to the record. If the Secretary of State finds that the record was wrongfully filed and should have been rejected under G.S. 25-9-516(b)(8), the Secretary of State shall cancel the record and it shall be void and of no effect.

(b2) Statement by Secured Party of Record. – A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under G.S. 25-9-509(d).

(b3) Contents of Statement Under Subsection (b2). – An information statement under subsection (b2) of this section must:

- (1) Identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;
- (2) Indicate that it is an information statement; and
- (3) Provide the basis for the person's belief that the person that filed the record was not entitled to do so under G.S. 25-9-509(d).

(c) Record not affected by ~~correction~~information statement. – The filing of a ~~correction~~an information statement does not affect the effectiveness of an initial financing statement or other filed record."

SECTION 16. G.S. 25-9-521 is rewritten to read:

"§ 25-9-521. Uniform form of written financing statement and amendment.

(a) Initial financing statement form. – A filing office that accepts written records may not refuse to accept a written initial financing statement in the following form and format except for a reason set forth in G.S. 25-9-516(b):



UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)
B. E-MAIL CONTACT AT FILER (optional)
C. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME					
OR	1b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
1c. MAILING ADDRESS	CITY		STATE	POSTAL CODE	COUNTRY

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME					
OR	2b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
2c. MAILING ADDRESS	CITY		STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME					
OR	3b. INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
3c. MAILING ADDRESS	CITY		STATE	POSTAL CODE	COUNTRY

4. COLLATERAL: This financing statement covers the following collateral

5. Check only if applicable and check only one box: Collateral is held in a Trust (see UCC1Ad, Item 17 and Instructions) being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box: Public Finance Transaction Manufactured Home Transaction A Debtor is a Transmitting Utility Agricultural Lien Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): Lessee/Lessor Consignee/Consignor Seller/Buyer Bailee/Bailor Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. **NAME OF FIRST DEBTOR:** Same as line 1a or 1b on Financing Statement; if line 1b was left blank because Individual Debtor name did not fit, check here

	9a. ORGANIZATION'S NAME
OR	9b. INDIVIDUAL'S SURNAME
	FIRST PERSONAL NAME
	ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. **DEBTOR'S NAME:** Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

	10a. ORGANIZATION'S NAME
OR	10b. INDIVIDUAL'S SURNAME
	INDIVIDUAL'S FIRST PERSONAL NAME
	INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

10c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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11. **ADDITIONAL SECURED PARTY'S NAME** or **ASSIGNOR SECURED PARTY'S NAME.** Provide only one name (11a or 11b)

	11a. ORGANIZATION'S NAME			
OR	11b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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12. **ADDITIONAL SPACE FOR ITEM 4 (Collateral):**

<p>13. <input type="checkbox"/> This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)</p> <p>15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest)</p>	<p>14. This FINANCING STATEMENT: <input type="checkbox"/> covers timber to be cut <input type="checkbox"/> covers as extracted collateral <input type="checkbox"/> is filed as a fixture filing</p> <p>16. Description of real estate:</p>
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17. MISCELLANEOUS:

UCC FINANCING STATEMENT ADDENDUM (Form UCC1Ad) (Rev. 04/20/11)

(b) Amendment form. – A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in G.S. 25-9-516(b):



UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A NAME & PHONE OF CONTACT AT FILER (optional)
B. E-MAIL CONTACT AT FILER (optional)
C SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE NUMBER	1b. <input type="checkbox"/> This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13
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2. **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3. **ASSIGNMENT** (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9
For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4. **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5. **PARTY INFORMATION CHANGE.**
Check one of these two boxes: Debtor or Secured Party of record **AND** Check one of these three boxes to:
CHANGE name and/or address: Complete item 6a or 6b, and item 7a or 7b and item 7c ADD name: Complete item 7a or 7b, and item 7c DELETE name: Give record name to be deleted in item 6a or 6b

6. **CURRENT RECORD INFORMATION:** Complete for Party Information Change - provide only one name (6a or 6b)

6a. ORGANIZATION'S NAME
OR
6b. INDIVIDUAL'S SURNAME
FIRST PERSONAL NAME
ADDITIONAL NAME(S)/INITIAL(S)
SUFFIX

7. **CHANGED OR ADDED INFORMATION:** Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME
OR
7b. INDIVIDUAL'S SURNAME
INDIVIDUAL'S FIRST PERSONAL NAME
INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S)
SUFFIX

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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8. **COLLATERAL CHANGE:** Also check one of these four boxes: ADD collateral DELETE collateral RESTATE covered collateral ASSIGN collateral
Indicate collateral:

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT:** Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)
If this is an Amendment authorized by a DEBTOR, check here and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME
OR
9b. INDIVIDUAL'S SURNAME
FIRST PERSONAL NAME
ADDITIONAL NAME(S)/INITIAL(S)
SUFFIX

10. **OPTIONAL FILER REFERENCE DATA:**

- (1) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and
- (2) The secured party's sworn affidavit in recordable form stating that:
 - a. A default has ~~occurred~~occurred with respect to the obligation secured by the mortgage; and
 - b. The secured party is entitled to enforce the mortgage nonjudicially."

SECTION 18. G.S. 25-9-625(c) reads as rewritten:

"(c) Persons entitled to recover damages; statutory damages ~~in consumer goods transaction~~if collateral is consumer goods. – Except as otherwise provided in G.S. 25-9-628:

- (1) A person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) of this section for its loss; and
- (2) If the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this Part may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price."

PART II. TRANSITION PROVISIONS.

SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE.

SECTION 19.(a) Continuing Perfection: Perfection Requirements Satisfied. – A security interest that is a perfected security interest immediately before the effective date of this act is a perfected security interest under Article 9 of Chapter 25 of the General Statutes as amended by this act if, when this act becomes effective, the applicable requirements for attachment and perfection under Article 9 of Chapter 25 of the General Statutes as amended by this act are satisfied without further action.

SECTION 19.(b) Continuing Perfection: Perfection Requirements Not Satisfied. – Except as otherwise provided in Section 21 of this act, if, immediately before this act becomes effective, a security interest is a perfected security interest, but the applicable requirements for perfection under Article 9 of Chapter 25 of the General Statutes as amended by this act are not satisfied when this act becomes effective, the security interest remains perfected thereafter only if the applicable requirements for perfection under Article 9 of Chapter 25 of the General Statutes as amended by this act are satisfied within one year after this act becomes effective.

SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE.

SECTION 20. Security Interest Unperfected Before Effective Date. – A security interest that is an unperfected security interest immediately before this act becomes effective becomes a perfected security interest:

- (1) Without further action, when this act becomes effective if the applicable requirements for perfection under Article 9 of Chapter 25 of the General Statutes as amended by this act are satisfied before or at that time; or
- (2) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE.

SECTION 21.(a) Pre-Effective-Date Filing Effective. – The filing of a financing statement before this act becomes effective is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under Article 9 of Chapter 25 of the General Statutes as amended by this act.

SECTION 21.(b) When Pre-Effective-Date Filing Becomes Ineffective. – This act does not render ineffective an effective financing statement that, before this act becomes effective, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in Article 9 of Chapter 25 of the General Statutes as it existed before amendment. However, except as otherwise provided in subsections (c) and (d) of this section and Section 22 of this act, the financing statement ceases to be effective:

- (1) If the financing statement is filed in this State, at the time the financing statement would have ceased to be effective had this act not become effective; or
- (2) If the financing statement is filed in another jurisdiction, at the earlier of:
 - a. The time the financing statement would have ceased to be effective under the law of that jurisdiction; or
 - b. June 30, 2018.

SECTION 21.(c) Continuation Statement. – The filing of a continuation statement after this act becomes effective does not continue the effectiveness of a financing statement filed before this act becomes effective. However, upon the timely filing of a continuation statement after this act becomes effective and in accordance with the law of the jurisdiction governing perfection as provided in Article 9 of Chapter 25 of the General Statutes as amended by this act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act becomes effective continues for the period provided by the law of that jurisdiction.

SECTION 21.(d) Application of Sub-Subdivision (b)(2)b. to Transmitting Utility Financing Statement. – Sub-subdivision (b)(2)b. of this section applies to a financing statement that, before this act becomes effective, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in Article 9 of Chapter 25 of the General Statutes as it existed before amendment, only to the extent that Article 9 of Chapter 25 of the General Statutes as amended by this act provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

SECTION 21.(e) Application of Part 5 of Article 9 of Chapter 25 of the General Statutes. – A financing statement that includes a financing statement filed before this act becomes effective and a continuation statement filed after this act becomes effective is effective only to the extent that it satisfies the requirements of Part 5 of Article 9 of Chapter 25 of the General Statutes as amended by this act for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of G.S. 25-9-503(a)(2) as amended by this act. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of G.S. 25-9-503(a)(3) as amended by this act.

WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT.

SECTION 22.(a) Initial Financing Statement in Lieu of Continuation Statement. – The filing of an initial financing statement in the office specified in G.S. 25-9-501 continues the effectiveness of a financing statement filed before this act becomes effective if:

- (1) The filing of an initial financing statement in that office would be effective to perfect a security interest under Article 9 of Chapter 25 of the General Statutes as amended by this act;
- (2) The pre-effective-date financing statement was filed in an office in another State; and
- (3) The initial financing statement satisfies subsection (c) of this section.

SECTION 22.(b) Period of Continued Effectiveness. – The filing of an initial financing statement under subsection (a) of this section continues the effectiveness of the pre-effective-date financing statement:

- (1) If the initial financing statement is filed before this act becomes effective, for the period provided in G.S. 25-9-515 as it read prior to the amendment by Section 13 of this act with respect to an initial financing statement; and

- (2) If the initial financing statement is filed after this act becomes effective, for the period provided in G.S. 25-9-515 as amended by this act with respect to an initial financing statement.

SECTION 22.(c) Requirements for Initial Financing Statement Under Subsection (a). – To be effective for purposes of subsection (a) of this section, an initial financing statement must:

- (1) Satisfy the requirements of Part 5 of Article 9 of Chapter 25 of the General Statutes as amended by this act for an initial financing statement;
- (2) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and
- (3) Indicate that the pre-effective-date financing statement remains effective.

AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING STATEMENT.

SECTION 23.(a) "Pre-Effective-Date Financing Statement." – In this section, "pre-effective-date financing statement" means a financing statement filed before this act becomes effective.

SECTION 23.(b) Applicable Law. – After this act becomes effective, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Article 9 of Chapter 25 of the General Statutes as amended by this act. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

SECTION 23.(c) Method of Amending: General Rule. – Except as otherwise provided in subsection (d) of this section, if the law of this State governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this act becomes effective only if:

- (1) The pre-effective-date financing statement and an amendment are filed in the office specified in G.S. 25-9-501;
- (2) An amendment is filed in the office specified in G.S. 25-9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies subsection (c) of Section 22 of this act; or
- (3) An initial financing statement that provides the information as amended and satisfies subsection (c) of Section 22 of this act is filed in the office specified in G.S. 25-9-501.

SECTION 23.(d) Method of Amending: Continuation. – If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under subsections (c) and (e) of Section 21 of this act or Section 22 of this act.

SECTION 23.(e) Method of Amending: Additional Termination Rule. – Whether or not the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this State may be terminated after this act becomes effective by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies subsection (c) of Section 22 of this act has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Article 9 of Chapter 25 of the General Statutes as amended by this act as the office in which to file a financing statement.

PERSON ENTITLED TO FILE INITIAL FINANCING STATEMENT OR CONTINUATION STATEMENT.

SECTION 24. Person Entitled to File Initial Financing Statement or Continuation Statement. – A person may file an initial financing statement or a continuation statement under this Part if:

- (1) The secured party of record authorizes the filing; and
- (2) The filing is necessary under this Part:
 - a. To continue the effectiveness of a financing statement filed before this act becomes effective; or
 - b. To perfect or continue the perfection of a security interest.

PRIORITY.

SECTION 25. This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act becomes effective, Article 9 of Chapter 25 of the General Statutes as it existed before this act becomes effective determines priority.

PART III. APPLICABILITY, EFFECTIVE DATE, AND OTHER PROVISIONS.

APPLICABILITY.

SECTION 26.(a) Pre-Effective-Date Transactions or Liens. – Except as otherwise provided in Part II of this act, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act becomes effective.

SECTION 26.(b) Pre-Effective-Date Proceedings. – This act does not affect an action, case, or proceeding commenced before this act becomes effective.

AUTHORIZATION FOR PRINTING OF COMMENTS.

SECTION 27. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comments to the 2010 Amendments to Article 9 of the Uniform Commercial Code and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

EFFECTIVE DATE.

SECTION 28. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:12 p.m. on the 26th day of June, 2012.

Session Law 2012-71

H.B. 1069

AN ACT TO INCREASE THE MINIMUM AMOUNT OF INTESTATE PERSONAL PROPERTY PASSING TO THE SURVIVING SPOUSE AND THE AMOUNT OF THE YEAR'S ALLOWANCE FROM A DECEDENT'S ESTATE FOR A SURVIVING CHILD, TO REINSERT ERRONEOUSLY REMOVED REFERENCES TO A CHILD'S "NEXT FRIEND" IN THE STATUTES RELATING TO A CHILD'S YEAR'S ALLOWANCE, AND TO SPECIFY THAT THE CHILD'S YEAR'S ALLOWANCE MAY BE PAID TO A WIDOWER ON THE CHILD'S BEHALF AS WELL AS TO A WIDOW, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 29-14(b) reads as rewritten:

- "(b) Personal Property. – The share of the surviving spouse in the personal property is:
- (1) If the intestate is survived by only one child or by any lineal descendant of only one deceased child, and the net personal property does not exceed ~~thirty thousand dollars (\$30,000)~~sixty thousand dollars (\$60,000) in value, all of the personal property; if the net personal property exceeds ~~thirty thousand dollars (\$30,000)~~sixty thousand dollars (\$60,000) in value, the sum of ~~thirty~~

- ~~thousand dollars (\$30,000)~~ sixty thousand dollars (\$60,000) plus one half of the balance of the personal property;
- (2) If the intestate is survived by two or more children, or by one child and any lineal descendant of one or more deceased children, or by lineal descendants of two or more deceased children, and the net personal property does not exceed ~~thirty thousand dollars (\$30,000)~~ sixty thousand dollars (\$60,000) in value, all of the personal property; if the net personal property exceeds ~~thirty thousand dollars (\$30,000)~~ sixty thousand dollars (\$60,000) in value, the sum of ~~thirty thousand dollars (\$30,000)~~ sixty thousand dollars (\$60,000) plus one third of the balance of the personal property;
- (3) If the intestate is not survived by a child, children, or any lineal descendant of a deceased child or children, but is survived by one or more parents, and the net personal property does not exceed ~~fifty thousand dollars (\$50,000)~~ one hundred thousand dollars (\$100,000) in value, all of the personal property; if the net personal property exceeds ~~fifty thousand dollars (\$50,000)~~ one hundred thousand dollars (\$100,000) in value, the sum of ~~fifty thousand dollars (\$50,000)~~ one hundred thousand dollars (\$100,000) plus one half of the balance of the personal property;
- (4) If the intestate is not survived by a child, children, or any lineal descendant of a deceased child or children, or by a parent, all of the personal property."

SECTION 2.(a) G.S. 30-17 reads as rewritten:

"§ 30-17. When children entitled to an allowance.

Whenever any parent dies survived by any child under the age of 18 years, including an adopted child or a child with whom the widow may be pregnant at the death of her husband, or a child who is less than 22 years of age and is a full-time student in any educational institution, or a child under 21 years of age who has been declared mentally incompetent, or a child under 21 years of age who is totally disabled, or any other person under the age of 18 years residing with the deceased parent at the time of death to whom the deceased parent or the surviving parent stood in loco parentis, every such child shall be entitled to receive an allowance of two thousand dollars (\$2,000) for the child's support for the year next ensuing the death of ~~such the~~ parent. ~~Such~~ The allowance shall be in addition to the child's share of the deceased parent's estate and shall be exempt from any lien by judgment or execution against the property of ~~such the deceased~~ parent. The personal representative of the deceased parent shall, within one year after the parent's death, assign to every such child the allowance herein provided for; but if there is no personal representative or if the personal representative fails or refuses to act within 10 days after written ~~request~~ application by a guardian or next friend on behalf of ~~such the~~ child, the allowance may be assigned by a magistrate or clerk of court upon ~~application of said guardian~~ application.

If the child resides with the ~~widow~~ surviving spouse of the deceased parent at the time ~~such the~~ allowance is paid, the allowance shall be paid to ~~said widow~~ the surviving spouse for the benefit of ~~said the~~ child. If the child resides with its surviving parent who is other than the ~~widow~~ surviving spouse of the deceased parent, ~~such the~~ allowance shall be paid to ~~said the~~ surviving parent for the use and benefit of ~~such child, regardless of whether the deceased died testate or intestate or whether the widow dissented from the will~~ the child. The payment shall be made regardless of whether the deceased died testate or intestate or whether the surviving spouse petitioned for an elective share under Article 1A of Chapter 30 of the General Statutes. Provided, however, the allowance shall not be available to an illegitimate child of a deceased father, unless ~~such the~~ deceased father ~~shall have~~ has recognized the paternity of ~~such the~~ illegitimate child by deed, ~~will~~ will, or other paper-writing. If the child does not reside with a surviving spouse or a surviving parent when the allowance is paid, the allowance shall be paid to the child's general guardian, if any, and if none, to the clerk of the superior court who shall receive and disburse ~~same the~~ allowance for the benefit of ~~such the~~ child."

SECTION 2.(b) G.S. 30-20 reads as rewritten:

"§ 30-20. Procedure for assignment.

Upon the application of the surviving spouse, a child by the child's ~~guardian, guardian or next friend~~, or the personal representative of the deceased, the clerk of superior court of the county in which the deceased resided may assign the inquiry to a magistrate of the county. The clerk of court, or magistrate upon assignment, shall ascertain the person or persons entitled to an allowance according to the provisions of this Article, and determine the money or other personal property of the estate, and pay over to or assign to the surviving spouse and to the children, if any, so much thereof as they shall be entitled to as provided in this Article. Any deficiencies shall be made up from any of the personal property of the deceased, and if the personal property of the estate shall be insufficient to satisfy ~~such the~~ allowance, the clerk of the superior court shall enter judgment against the personal representative for the amount of ~~such the~~ deficiency, to be paid when a sufficiency of such assets shall come into the personal representative's hands."

SECTION 2.(c) G.S. 30-21 reads as rewritten:

"§ 30-21. Report of clerk or magistrate.

The clerk of court, or magistrate upon assignment, shall make and sign three lists of the money or other personal property assigned to each person, stating their quantity and value, and the deficiency to be paid by the personal representative. Where the allowance is to the surviving spouse, one of these lists shall be delivered to the surviving spouse. Where the allowance is to a child, one of these lists shall be delivered to the surviving parent with whom the child is living; or to the child's guardian or next friend if the child is not living with ~~said the~~ surviving parent; or to the child if ~~said the~~ child is not living with the surviving parent and has no ~~guardian, guardian or next friend~~. One list shall be delivered to the personal representative. One list shall be returned by the magistrate or clerk, within 20 days after the assignment, to the superior court of the county in which administration was granted or the will probated, and the clerk shall file and record the ~~same, list~~, together with any judgment entered pursuant to G.S. 30-20."

SECTION 2.(d) G.S. 30-23 reads as rewritten:

"§ 30-23. Right of appeal.

The personal representative, or the surviving spouse, or child by a the child's ~~guardian, guardian or next friend~~, or any creditor, devisee, or heir of the deceased, may appeal from the finding of the magistrate or clerk of court to the superior court of the county, by filing a copy of the assignment and a notice of appeal within 10 days after the assignment, and the appeal shall be heard as provided in G.S. 1-301.2, provided that the hearing on the appeal shall be at the next available session of superior court."

SECTION 2.(e) G.S. 30-27 reads as rewritten:

"§ 30-27. Surviving spouse or child may apply to superior court.

In addition to any support otherwise assigned to the surviving spouse or child ~~as above prescribed, under this Article~~, without application to the personal representative, the surviving spouse, or the child through the child's guardian or next friend may, after the date specified in the general notice to creditors as provided for in G.S. 28A-14-1(a), and within one year after the decedent's death, apply to the superior court of the county in which administration was granted or the will probated to have a year's support assigned at an amount other than prescribed in G.S. 30-15 and G.S. 30-17."

SECTION 3. G.S. 30-17, as amended by Section 2(a) of this act, reads as rewritten:

"§ 30-17. When children entitled to an allowance.

Whenever any parent dies survived by any child under the age of 18 years, including an adopted child or a child with whom the widow may be pregnant at the death of her husband, or a child who is less than 22 years of age and is a full-time student in any educational institution, or a child under 21 years of age who has been declared mentally incompetent, or a child under 21 years of age who is totally disabled, or any other person under the age of 18 years residing with the deceased parent at the time of death to whom the deceased parent or the surviving

parent stood in loco parentis, every such child shall be entitled to receive an allowance of ~~two thousand dollars (\$2,000)~~ five thousand dollars (\$5,000) for the child's support for the year next ensuing the death of the parent. The allowance shall be in addition to the child's share of the deceased parent's estate and shall be exempt from any lien by judgment or execution against the property of the deceased parent. The personal representative of the deceased parent shall, within one year after the parent's death, assign to every such child the allowance herein provided for; but if there is no personal representative or if the personal representative fails or refuses to act within 10 days after written application by a guardian or next friend on behalf of the child, the allowance may be assigned by a magistrate or clerk of court upon application.

If the child resides with the surviving spouse of the deceased parent at the time the allowance is paid, the allowance shall be paid to the surviving spouse for the benefit of the child. If the child resides with its surviving parent who is other than the surviving spouse of the deceased parent, the allowance shall be paid to the surviving parent for the use and benefit of the child. The payment shall be made regardless of whether the deceased died testate or intestate or whether the surviving spouse petitioned for an elective share under Article 1A of Chapter 30 of the General Statutes. Provided, however, the allowance shall not be available to an illegitimate child of a deceased father, unless the deceased father has recognized the paternity of the illegitimate child by deed, will, or other paper-writing. If the child does not reside with a surviving spouse or a surviving parent when the allowance is paid, the allowance shall be paid to the child's general guardian, if any, and if none, to the clerk of the superior court who shall receive and disburse the allowance for the benefit of the child."

SECTION 4. Section 2 of this act is effective when this act becomes law. The remainder of this act becomes effective January 1, 2013, and applies to estates of persons dying on or after that date.

In the General Assembly read three times and ratified this the 20th day of June, 2012.

Became law upon approval of the Governor at 4:13 p.m. on the 26th day of June, 2012.

Session Law 2012-72

H.B. 1081

AN ACT RELATING TO CHANGES PERTAINING TO LICENSED CLINICAL SOCIAL WORKERS, CLINICAL ADDICTION SPECIALISTS, AND PSYCHOLOGISTS, AS RECOMMENDED BY THE JOINT OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-270.5(d) reads as rewritten:

"(d) For permanent licensure as a licensed psychologist, an otherwise qualified psychologist must secure two years of acceptable and appropriate supervised experience germane to his or her training and intended area of practice as a psychologist. The Board shall permit such supervised experience to be acquired on a less than full-time basis, and shall additionally specify in its rules the format, setting, content, time frame, amounts of supervision, qualifications of supervisors, disclosure of supervisory relationships, the organization of the supervised experience, and the nature of the responsibility assumed by the supervisor. Supervision of health services must be received from qualified licensed psychologists holding health services provider certificates, or from other psychologists recognized by the Board in accordance with Board rules.

- (1) One of these years of experience shall be postdoctoral, and for this year, the Board may require, as specified in its rules, that the supervised experience be comparable to the knowledge and skills acquired during formal doctoral or postdoctoral education, in accordance with established professional standards.

- (2) One of these years may be predoctoral and the Board shall establish rules governing appropriate supervised predoctoral experience.
- (3) A psychologist who meets all other requirements of G.S. 90-270.11(a) as a licensed psychologist, except the two years of supervised experience, may be issued a provisional license as a psychologist or a license as a psychological associate, without having received a master's degree or specialist degree in psychology, by the Board for the practice of psychology. ~~If the psychologist terminates the supervised experience before the completion of two years, the Board may place the psychologist on inactive status, during which time supervision will not be required, and the practice of psychology or the offer to practice psychology is prohibited. In the event a licensed psychologist issued a provisional license under this subsection is placed on inactive status or is completing the supervised experience on a part time basis, the Board may renew the provisional license as necessary until such time as the psychologist has completed the equivalent of two years' supervised experience."~~

SECTION 2. G.S. 90B-3 reads as rewritten:

"§ 90B-3. Definitions.

The following definitions apply in this Chapter:

- ...
- (7a) ~~Provisional Licensed Clinical Social Worker.~~ Licensed Clinical Social Worker Associate. – A person issued a ~~provisional~~ an associate license to provide clinical social work services pursuant to G.S. 90B-7(f).
- (8) Social Worker. – A person certified, licensed, or ~~provisionally~~ associate licensed by this Chapter or otherwise exempt under G.S. 90B-10."

SECTION 3. G.S. 90B-7(f) reads as rewritten:

"(f) The Board may issue a ~~provisional~~ an associate license in clinical social work to a person who has a masters or doctoral degree in a social work program from a college or university having a social work program approved by the Council on Social Work Education and desires to be licensed as a clinical social worker. The ~~provisional~~ associate license may not be issued for a period exceeding two years and the person issued the ~~provisional~~ associate license must practice under the supervision of a licensed clinical social worker or a Board-approved alternate. Notwithstanding G.S. 90B-6(g), a ~~provisional~~ an associate licensee shall pass the qualifying clinical examination prescribed by the Board within two years to be eligible for renewal of the ~~provisional~~ associate license. The ~~provisional~~ associate licensee shall complete all requirements for ~~full~~ licensure within three renewal cycles, or a total of six years, unless otherwise directed by the Board."

SECTION 4. G.S. 90B-16(a) reads as rewritten:

"§ 90B-16. Title protection.

(a) Except as provided in G.S. 90B-10, an individual who (i) is not certified, licensed, or ~~provisionally~~ associate licensed by this Chapter as a social worker, (ii) does not hold a bachelor's or master's degree in social work from a college or university having a social work program accredited or admitted to candidacy for accreditation by the Council of Social Work Education, or (iii) has not received a doctorate in social work shall not use the title "Social Worker" or any variation of the title."

SECTION 5. G.S. 90-113.31A reads as rewritten:

"§ 90-113.31A. Definitions.

The following definitions shall apply in this Article:

- ...
- (22a) ~~Provisional licensed clinical addictions specialist.~~ Licensed Clinical Addictions Specialist Associate. – A registrant who successfully completes 300 hours of Board-approved supervised practical training in pursuit of licensure as a clinical addictions specialist.

...

- (26) Substance abuse professional. – A registrant, certified substance abuse counselor, substance abuse counselor intern, certified substance abuse prevention consultant, certified clinical supervisor, ~~provisional licensed clinical addictions specialist~~, licensed clinical addictions specialist associate, licensed clinical addictions specialist, certified substance abuse residential facility director, clinical supervisor intern, or certified criminal justice addictions professional."

SECTION 6. 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~~", "Licensed Clinical Addictions Specialist Associate", "Certified Substance Abuse Residential Facility Director", "Certified Criminal Justice Addictions Professional", "Substance Abuse Counselor Intern", "Provisional Licensed Clinical Addictions Specialist", "Clinical Supervisor Intern", or "Registrant"."

SECTION 7. 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, licensed clinical addictions specialist, ~~provisional licensed clinical addictions specialist~~, licensed clinical addictions specialist associate, certified substance abuse residential facility director, certified criminal justice addictions professional, clinical supervisor intern, substance abuse counselor intern, or registrant without first having obtained a 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 ~~provisional licensed clinical addictions specialist~~, licensed clinical addictions specialist associate, 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~~, licensed clinical addictions specialist associate, clinical supervisor intern, 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~~, licensed clinical addictions specialist associate, 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,~~ licensed clinical addictions specialist associate, 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) Repealed by Session Laws 2008-130, s. 6, effective July 28, 2008.
- (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 8. Section 10.31(d)(1)n. of S.L. 2011-145 reads as rewritten:

- "n. Mental health services. – Coverage is limited to children eligible for EPSDT services provided by:
1. Licensed or certified psychologists, licensed clinical social workers, licensed clinical social workers associates, certified clinical nurse specialists in psychiatric mental health advanced practice, nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, licensed psychological associates, licensed professional counselors, licensed professional counselor associates, licensed marriage and family therapists, licensed marriage and family therapist associates, licensed clinical addictions specialists, licensed clinical addiction specialists associate, and certified clinical supervisors, when Medicaid-eligible children are referred by the Community Care of North Carolina primary care physician, a Medicaid-enrolled psychiatrist, or the area mental health program or local management entity, and
 2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department."

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

In the General Assembly read three times and ratified this the 20th day of June, 2012.

Became law upon approval of the Governor at 4:15 p.m. on the 26th day of June, 2012.

Session Law 2012-73

H.B. 391

AN ACT TO REVISE THE LAWS RELATING TO COUNTY RESEARCH AND PRODUCTION SERVICE DISTRICTS TO REFLECT CHANGED CIRCUMSTANCES, TO ALLOW FLEXIBILITY IN PROVISION OF SERVICES IN URBAN AREAS OF SUCH DISTRICTS, AND TO AMEND THE COUNTY SERVICE DISTRICT ACT OF 1973 RELATING TO APPROVAL OF PROPERTY TAXES IN MULTIJURISDICTIONAL INDUSTRIAL PARK DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 16 of Chapter 153A of the General Statutes reads as rewritten:

"Part 2. County Research and Production Service ~~Districts.~~Districts and Urban Research Service Districts.

"§ 153A-311. **Purposes for which districts may be established.**

The board of commissioners of any county may define a county research and production service district in order to finance, provide, and maintain for the district any service, facility, or function that a county or a city is authorized by general law to provide, finance, or maintain. Such a service, facility, or function shall be financed, provided, or maintained in the district either in addition to or to a greater extent than services, facilities, or functions are financed, provided, or maintained for the entire county.

"§ 153A-312. **Definition of research and production service district.**

(a) Standards. – The board of commissioners may by resolution establish a research and production service district for any area of the county that, at the time the resolution is adopted, meets the following standards:

- (1) All (i) real property in the district is being used for or is subject to covenants that limit its use to ~~research~~research; or scientifically-oriented ~~production or for~~production, technology, education; or associated commercial, residential, or institutional purposes; or ~~for other purposes specifically authorized pursuant to the terms and conditions of the covenants,~~ or (ii) if all the real property in the district is part of a multijurisdictional industrial park that satisfies the criteria of G.S. 143B-437.08(h), all such real property in the district is subject to covenants that limit its use to research or scientifically oriented production, associated commercial or institutional purposes, or other industrial and associated commercial and institutional uses.
- (2) The district (i) contains at least 4,000 acres or (ii) satisfies the criteria of G.S. 143B-437.08(h).
- (3) The district (i) includes research and production facilities that in combination employ at least 5,000 persons or (ii) satisfies the criteria of G.S. 143B-437.08(h).
- (4) ~~All real property located in the district was at one time or is currently owned by a nonprofit corporation, which developed or is developing the property as a research and production park.~~
- (5) A petition requesting creation of the district signed by at least fifty percent (50%) of the owners of real property in the district who own at least fifty percent (50%) of total area of the real property in the district has been presented to the board of commissioners. In determining the total area of real property in the district and the number of owners of real property, there shall be excluded (1) real property exempted from taxation and real property classified and excluded from taxation and (2) the owners of such exempted or classified and excluded property.
- ~~(6) The district has no more than 25 permanent residents.~~
- (7) There exists in the district an association of owners and tenants, to which at least seventy-five percent (75%) of the owners of nonresidential real property belong, which association can make the recommendations provided for in G.S. 153A-313. This subdivision shall not apply to a research and production service district that satisfies the criteria of G.S. 143B-437.08(h).
- (8) ~~There exists, or will exist when conveyed by the nonprofit corporation described in subdivision (4) of this subsection,~~exist deed-imposed conditions, covenants, restrictions, and reservations that apply to all real property in the district ~~other than property owned by the federal~~

government district, provided that the covenants, restrictions, and reservations shall not be effective against the United States as long as it owns or leases property in the district but shall apply to any subsequent owner or lessee of such property.

- (9) No part of the district lies within the boundaries of any incorporated city or town.

The Board of Commissioners may establish a research and production service district if, upon the information and evidence it receives, the Board finds that:

- (1) The proposed district meets the standards set forth in this subsection; and
- (2) It is impossible or impracticable to provide on a countywide basis the additional or higher levels of services, facilities, or functions proposed for the district; and
- (3) It is economically feasible to provide the proposed services, facilities, or functions to the district without unreasonable or burdensome tax levies.

(a1) Additional Uses. – A developer of a research and production service district established prior to June 1, 2012, may amend the covenants that limit the use of real property in the district to include any of the following uses: research; or scientifically-oriented production, technology, education; or associated commercial, residential, or institutional purposes; or for other purposes specifically authorized pursuant to the terms and conditions of the covenants. A research and production service district is presumed to be in compliance with the standards in subsection (a) of this section if the district met the standards in subsection (a) of this section, as that subsection was enacted at the time of the establishment of the district.

(b) Multi-County Districts. – If an area that meets the standards for creation of a research and production service district lies in more than one county, the boards of commissioners of those counties may adopt concurrent resolutions establishing a ~~service~~ district, even if that portion of the district lying in any one of the counties does not by itself meet the standards. Each of the county boards of commissioners shall follow the procedure set out in this section for creation of a ~~service~~ district.

If a multi-county ~~service~~ district is established, as provided in this subsection, the boards of commissioners of the counties involved shall jointly determine whether the same appraisal and assessment standards apply uniformly throughout the ~~district~~ district, or, in the case of a multijurisdictional industrial park that satisfies the criteria of G.S. 143B-437.08(h), whether there is a current need in each participating county to levy a tax, which determination shall be made by each participating county's board of commissioners. This determination shall be set out in concurrent resolutions of the boards. If the same appraisal and assessment standards apply uniformly throughout the district, the boards of commissioners of all the counties shall levy the same rate of tax for the district, so that a uniform rate of tax is levied for district purposes throughout the district. If the boards determine that the same standards do not apply uniformly throughout the district, the boards shall agree on the extent of divergence between the counties and on the resulting adjustments of tax rates that will be necessary in order that an effectively uniform rate of tax is levied for district purposes throughout the district. In the event that one or more of the boards of commissioners in one or more of the counties participating in a multijurisdictional industrial park that satisfies the criteria of G.S. 143B-437.08(h) determines that there is no current need to levy a tax for all or part of the property meeting said requirements within its jurisdictional boundaries, then that county or those counties shall be under no obligation to do so. That county or those counties participating in a multijurisdictional industrial park that satisfies the criteria of G.S. 143B-437.08(h) that choose to levy a tax for all or part of the property meeting said requirements within its jurisdictional boundaries may do so without setting an effectively uniform rate of tax as described above, provided such rate shall not exceed the rate allowed in G.S. 143B-317(b).

The boards of commissioners of the counties establishing a multi-county ~~service~~ district pursuant to this subsection may, by concurrent resolution, provide for the administration of services within the district by one or more counties on behalf of all the establishing counties."

(c) Report. – Before the public hearing required by subsection (d), the board of commissioners shall cause to be prepared a report containing:

- (1) A map of the proposed district, showing its proposed boundaries;
- (2) A statement showing that the proposed district meets the standards set out in subsection (a); and
- (3) A plan for providing one or more services, facilities, or functions to the district.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(d) Hearing and Notice. – The board of commissioners shall hold a public hearing before adopting any resolution defining a ~~service~~-district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a map of the proposed district and a statement that the report required by subsection (c) is available for public inspection in the office of the clerk to the board. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed and his certificate is conclusive in the absence of fraud.

(e) Effective Date. – The resolution defining a ~~service~~-district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board of commissioners.

"§ 153A-313. ~~Advisory~~ Research and production service district advisory committee.

(a) The board or boards of commissioners, in the resolution establishing a research and production service district, shall also provide for an advisory committee for the district. Such a committee shall have at least 10 members, serving terms as set forth in the resolution; one member shall be the representative of the developer of the research and production ~~park~~-~~park~~ established as a research and production service district. The resolution shall provide for the appointment or designation of a ~~chairman~~-~~chair~~. The board of commissioners or, in the case of a multi-county ~~service~~-district, the boards of commissioners shall appoint the members of the advisory committee. If a multi-county ~~service~~-district is established, the concurrent resolutions establishing the district shall provide how many members of the advisory committee are to be appointed by each board of commissioners. Before making the appointments, the appropriate board shall request the association of owners and tenants, required by G.S. 153A-312(a), to submit a list of persons to be considered for appointment to the committee; the association shall submit at least two names for each appointment to be made. Except as provided in the next two sentences, the board of commissioners shall make the appointments to the committee from the list of persons submitted. In addition, the developer of the research and production park shall appoint one person to the advisory committee as the developer's representative on the committee. In addition, in a single county ~~service~~-district, the board of commissioners may make two additional appointments of such other persons as the board of commissioners deems appropriate, and in a multi-county ~~service~~-district, each board of county commissioners may make one additional appointment of such other person as that board of commissioners deems appropriate. Whenever a vacancy occurs on the committee in a position filled by appointment by ~~a~~-~~the~~ board of commissioners, the appropriate board, before filling the vacancy, shall request the association to submit the names of at least two persons to be considered for the vacancy; and the board shall fill the vacancy by appointing one of the persons so submitted, except that if the vacancy is in a position appointed by the board of commissioners under the preceding sentence of this section, the board of commissioners making that appointment shall fill the vacancy with such person as that board of commissioners deems appropriate.

Each year, before adopting the budget for the ~~service~~-district and levying the tax for the district, the board or boards of commissioners shall request recommendations from the advisory committee as to the level of services, facilities, or functions to be provided for the district for the ensuing year. The board or boards of commissioners shall, to the extent permitted by law, expend the proceeds of any tax levied for the district in the manner recommended by the advisory ~~board~~-committee.

(b) In the event that the research and production service district satisfies the criteria of G.S. 143B-437.08(h), the board of directors for the nonprofit corporation which owns the industrial park shall serve as the advisory committee described in subsection (a) of this section.

"§ 153A-314. Extension of service districts.

(a) Standards. – A board of commissioners may by resolution annex territory to a research and production service district upon finding that:

- (1) The conditions, covenants, restrictions, and reservations required by G.S. 153A-312(a)(8) that apply to all real property in the ~~research~~-district, ~~other than property owned by the federal government,~~ district also apply or will apply to the property, other than property owned by the federal government, to be annexed property to be annexed, provided that the covenants, restrictions, and reservations shall not be effective against the United States as long as it owns or leases property in the district but shall apply to any subsequent owner or lessee of such property.
- (2) One hundred percent (100%) of the owners of real property in the area to be annexed have petitioned for annexation.
- (3) The district, following the annexation, will continue to meet the standards set out in G.S. 153A-312(a).
- (4) The area to be annexed requires the services, facilities, or functions financed, provided, or maintained for the district.
- (5) The area to be annexed is contiguous to the district.

(b) Report. – Before the public hearing required by subsection (c), the board shall cause to be prepared a report containing:

- (1) A map of the district and the adjacent territory proposed to be annexed, showing the present and proposed boundaries of the district; and
- (2) A statement showing that the area to be annexed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution extending the boundaries of a ~~service~~-district. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than four weeks before the hearing. In addition, the notice shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the area to be annexed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Effective Date. – The resolution extending the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board.

"§ 153A-314.1. Removal of territory from ~~service~~-districts.

(a) Standards. – A board of commissioners may by resolution remove territory from a research and production service district upon finding that:

- (1) ~~The owners of the territory to be removed contemplate placing residential uses on some of the territory to be removed.~~ removal has been recommended by a vote of two-thirds of the eligible votes of the owners and tenants association.
 - (2) One hundred percent (100%) of the owners of real property in the territory to be removed have petitioned for removal.
 - (3) The territory to be removed no longer requires the services, facilities, or functions financed, provided, or maintained for the district.
- (b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report containing:
- (1) A map of the district highlighting the territory proposed to be removed, showing the present and proposed boundaries of the district; and
 - (2) A statement showing that the territory to be removed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least 10 days before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution reducing the boundaries of a ~~service~~-district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than seven days before the hearing. In addition, the notice shall be mailed at least two weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the territory to be removed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Municipal Annexation Allowed Under General Law. – The general law concerning annexation, Article 4A of Chapter 160A of the General Statutes, shall apply to any territory removed from the district under this section, notwithstanding any local act to the contrary.

(e) Effective Date. – The resolution reducing the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board.

"§ 153A-315. Required provision or maintenance of services.

(a) New District. – When a county or counties define a research and production service district, it or they shall provide, maintain, or let contracts for the services for which the district is being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district.

(b) Extended District. – When a territory is annexed to a research and production service district, the county or counties shall provide, maintain, or let contracts for the services provided or maintained throughout the district to property in the area annexed to the district within a reasonable time, not to exceed one year, after the effective date of the annexation.

"§ 153A-316. Abolition of ~~service~~-districts.

A board or boards of county commissioners may by resolution abolish a research and production service district upon finding that (i) a petition requesting abolition, signed by at least fifty percent (50%) of the owners of nonresidential real property in the district who own at least fifty percent (50%) of the total area of nonresidential real property in the district, has been submitted to the board or boards; and (ii) there is no longer a need for such ~~service~~-district. In determining the total area of nonresidential real property in the district and the number of owners of nonresidential real property, there shall be excluded (1) real property exempted from taxation and real property classified and excluded from taxation and (2) the owners of such exempted or classified and excluded property. The board or boards shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date,

hour, and place of the hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any ~~service~~-district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the board or boards. If a multi-county ~~service~~-district is established, it may be abolished only by concurrent resolution of the board of commissioners of each county in which the district is located.

"§ 153A-316.1. Urban research service district (URSD).

(a) Standards. – The board of commissioners of a county may establish one or more urban research service districts ("URSD" as used in this Part) that meets the following standards:

- (1) The URSD is within a county research and production service district located partly within that county.
- (2) The URSD is located wholly within that county.
- (3) The URSD is not contained within another URSD.
- (4) A petition requesting creation of the URSD signed by at least fifty percent (50%) of the owners of real property in the URSD who own at least fifty (50%) of total area of the real property in the URSD has been presented to the board of commissioners.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board of commissioners shall cause to be prepared and adopted by it a report. The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing. The report shall contain the following:

- (1) A map of the proposed URSD, showing its proposed boundaries.
- (2) A statement showing that the proposed URSD is for the purpose of providing urban services, facilities, or functions to a greater extent than (i) in the entire county and (ii) in the county research and production service district.
- (3) A plan for providing one or more services, facilities, or functions to the URSD.

(c) Hearing and Notice. – The board of commissioners shall hold a public hearing before adopting any resolution defining a URSD under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a map of the proposed URSD and a statement that the report required by subsection (b) of this section is available for public inspection in the office of the clerk to the board. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail that is fully prepaid to the owners, as shown by the county tax records as of the preceding January 1, of all property located within the proposed URSD. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the designated person's certificate is conclusive in the absence of fraud.

(d) Effective Date. – The resolution defining a URSD shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board of commissioners.

"§ 153A-316.2. URSD advisory committee.

(a) Members. – The board of commissioners, in the resolution establishing a URSD, shall also provide for an advisory committee for the URSD. The committee shall have at least 10 members, serving terms as set forth in the resolution. The resolution shall provide for the appointment or designation of a chairperson. The board of commissioners shall appoint the members of the URSD advisory committee. Before making the appointments, the board shall request the association of owners and tenants, required by G.S. 153A-312(a), to submit a list of persons to be considered for appointment to the committee. The association shall submit at least two names for each appointment to be made. Except as provided in subsection (b) of this section, the board of commissioners shall make the appointments to the committee from the list of persons submitted.

(b) Additional Members. – In addition to the members provided in subsection (a) of this section, the developer of the research and production park established as a research and production service district shall appoint one person to the URSD advisory committee as the developer's representative on the committee. The board of commissioners may make two additional appointments of such other persons as the board of commissioners deems appropriate.

(c) Vacancy. – Whenever a vacancy occurs on the committee in a position filled by appointment by the board of commissioners, the board, before filling the vacancy, shall request the association to submit the names of at least two persons to be considered for the vacancy, and the board shall fill the vacancy by appointing one of the persons so submitted, except that if the vacancy is in a position appointed by the board of commissioners under subsection (b) of this section, the board of commissioners making that appointment shall fill the vacancy with such person as the board of commissioners deems appropriate.

(d) Advisory Role. – Each year, before adopting the budget for the URSD and levying the tax for the URSD, the board of commissioners shall request recommendations from the URSD advisory committee as to the level of services, facilities, or functions to be provided for the URSD for the ensuing year. The board of commissioners shall, to the extent permitted by law, expend the proceeds of any tax levied for the URSD in the manner recommended by the URSD advisory committee.

"§ 153A-316.3. Extension of URSD.

(a) Standards. – A board of commissioners may by resolution annex territory to a URSD upon finding that:

- (1) The conditions, covenants, restrictions, and reservations required by G.S. 153A-312(a)(8) that apply to all real property in the URSD also apply or will apply to the property to be annexed, provided that such covenants, restrictions, and reservations shall not be effective against the United States as long as it owns or leases property in the URSD but shall apply to any subsequent owner or lessee of such property.
- (2) One hundred percent (100%) of the owners of real property in the area to be annexed have petitioned for annexation.
- (3) The URSD, following the annexation, will continue to meet the standards set out in G.S. 153A-316.1(a).
- (4) The area to be annexed requires the services, facilities, or functions financed, provided, or maintained for the URSD.
- (5) The area to be annexed is contiguous to the URSD.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report. The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing. The report shall contain the following:

- (1) A map of the URSD and the adjacent territory proposed to be annexed, showing the present and proposed boundaries of the URSD.
- (2) A statement showing that the area to be annexed meets the standards and requirements of subsection (a) of this section.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution extending the boundaries of a URSD. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than four weeks before the hearing. In addition, the notice shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail that is fully prepaid to the owners, as shown by the county tax records as of the preceding January 1, of all property located within the area to be annexed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Effective Date. – The resolution extending the boundaries of the URSD shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board.

"§ 153A-316.4. Removal of territory from URSD.

(a) Standards. – A board of commissioners may by resolution remove territory from a URSD upon finding that:

- (1) The removal has been recommended by a vote of two-thirds of the eligible voters of the owners and tenants association.
- (2) One hundred percent (100%) of the owners of real property in the territory to be removed have petitioned for removal.
- (3) The territory to be removed no longer requires the services, facilities, or functions financed, provided, or maintained for the URSD.
- (4) The county has not financed any project for which taxes levied on the URSD provide debt service pursuant to G.S. 153A-317.1(c).

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report. The report shall be available for public inspection in the office of the clerk to the board for at least 10 days before the date of the public hearing. The report shall contain the following:

- (1) A map of the URSD highlighting the territory proposed to be removed, showing the present and proposed boundaries of the URSD.
- (2) A statement showing that the territory to be removed meets the standards and requirements of subsection (a) of this section.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution reducing the boundaries of the URSD. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than seven days before the hearing. In addition, the notice shall be mailed at least two weeks before the date of the hearing by any class of U.S. mail that is fully prepaid to the owners, as shown by the county tax records as of the preceding January 1, of all property located within the territory to be removed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Effective Date. – The resolution reducing the boundaries of the URSD shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board.

"§ 153A-316.5. Required provision or maintenance of services in URSD.

(a) New URSD. – When a county defines a URSD, it shall provide, maintain, or let contracts for the services for which the URSD is being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the URSD. When a county defines a URSD, it may designate the developer of the research and development park established as a research and production service district in which the URSD is located as an agent that may contract with any local government for the provision of services within the URSD.

(b) Extended URSD. – When a territory is annexed to a URSD, the county shall provide, maintain, or let contracts for the services provided or maintained throughout the URSD to property in the area annexed to the URSD within a reasonable time, not to exceed one year, after the effective date of the annexation.

"§ 153A-316.6. Abolition of URSD.

A county board of commissioners may by resolution abolish a URSD upon finding that (i) a petition requesting abolition, signed by at least fifty percent (50%) of the owners of nonresidential real property in the URSD who own at least fifty percent (50%) of the total area of nonresidential real property in the URSD, has been submitted to the board or boards; (ii) there is no longer a need for such URSD; and (iii) the county has not financed any project for which there is outstanding debt serviced by tax revenues levied within the URSD. In

determining the total area of nonresidential real property in the URSD and the number of owners of nonresidential real property, there shall be excluded (i) real property exempted from taxation and real property classified and excluded from taxation and (ii) the owners of such exempted or classified and excluded property. The board or boards shall hold a public hearing before adopting a resolution abolishing a URSD. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any URSD shall take effect at the end of a fiscal year following passage of the resolution, as determined by the board.

"§ 153A-317. Research and production service district taxesTaxes authorized; rate limitation.

(a) Tax Authorized. – A county, upon recommendation of the advisory committee established pursuant to G.S. 153A-313, may levy property taxes within a research and production service district in addition to those levied throughout the county, in order to finance, provide, or maintain for the district services provided therein in addition to or to a greater extent than those financed, provided, or maintained for the entire county. In addition, a county may allocate to a ~~service~~-district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes only within a ~~service~~-district may be expended only for services provided for the district.

Property subject to taxation in a newly established district or in an area annexed to an existing district is that subject to taxation by the county as of the preceding January 1.

(b) Limit. – Such additional property taxes may not be levied within any district established pursuant to this Article in excess of a rate of ten cents (10¢) on each one hundred dollars (\$100.00) value of property subject to taxation or, in the event that the research and production service district satisfies the criteria of G.S. 143B-437.08(h), such additional property taxes may not be levied within said district in excess of a rate of ~~fifteen cents (15¢)~~ twenty cents (20¢) on each one hundred dollars (\$100.00) value of property subject to taxation.

(c) Public Transportation. – For the purpose of constructing, maintaining, or operating public transportation as defined by G.S. 153A-149(c)(27), in addition to the additional property taxes levied under subsections (a) and (b) of this section, a county, upon recommendation of the advisory committee established pursuant to G.S. 153A-313, may levy additional property taxes within any ~~service~~-district established pursuant to this Article not in excess of a rate of ten cents (10¢) on each one hundred dollars (\$100.00) value of property subject to taxation. Such property taxes for public transportation may only be used within the ~~service~~-district, or to provide for public transportation from the ~~service~~-district to other public transportation systems or to other places outside the ~~service~~-district including airports."

"§ 153A-317.1. Urban research service district taxes authorized; rate.

(a) Tax Authorized. – A county, upon recommendation of the advisory committee established pursuant to G.S. 153A-316.2, may levy property taxes within a URSD in addition to those levied throughout the county, and in addition to those levied throughout the county research and production service district, in order to finance, provide, or maintain for the URSD services provided therein in addition to or to a greater extent than those financed, provided, or maintained both for the entire county and for the county research and production service district. Only those services that cities are authorized by law to provide may be provided. In addition, a county may allocate to a URSD any other revenue not otherwise restricted by law.

(b) Rate. – Property subject to taxation in a newly established URSD or in an area annexed to an existing URSD is that subject to taxation by the county as of the preceding January. The maximum tax rate set forth in G.S. 153A-317 shall not apply to the URSD. The additional property taxes within any URSD may not be levied in excess of the rate levied in the prior year by a city that:

- (1) Is the largest city in population that is contiguous to the county research and production service district where the URSD is located.
- (2) Is located primarily within the same county the URSD is located.

(c) Use. – The proceeds of taxes levied within a URSD may be expended only for the benefit of the URSD. The taxes levied for the URSD may be used for debt service on any debt issued by the county that is used wholly or partly for capital projects located within the URSD, but not in greater proportion than expense of projects located within the URSD bear to the entire expense of capital projects financed by that borrowing of the county. For the purpose of this subsection, "debt" includes (i) general obligation bonds and notes issued under Chapter 159 of the General Statutes, (ii) revenue bonds issued under Chapter 159 of the General Statutes, (iii) financing agreements under Article 8 of Chapter 159 of the General Statutes, and (iv) special obligation bonds issued by the county."

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:18 p.m. on the 26th day of June, 2012.

Session Law 2012-74

H.B. 1015

AN ACT TO SET THE REGULATORY FEES, TO CONTINUE THE INDIVIDUAL INCOME TAX DEDUCTION FOR EDUCATOR EXPENSES, AND TO ENHANCE ECONOMIC DEVELOPMENT.

The General Assembly of North Carolina enacts:

SET REGULATORY FEES

SECTION 1.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve-hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2012.

SECTION 1.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2012-2013 fiscal year is two hundred thousand dollars (\$200,000).

SECTION 1.(c) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six percent (6%) for the 2012 calendar year.

SECTION 1.(d) Subsections (a) and (b) of this section become effective July 1, 2012. The remainder of this section is effective when it becomes law.

CONTINUE EDUCATOR EXPENSE DEDUCTION

SECTION 2.(a) G.S. 105-134.6(d) is amended by adding a new subdivision to read:

"(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

...

- (9) To the extent a deduction has not been claimed for educator expenses in determining federal adjusted gross income, an eligible educator may deduct an amount not to exceed two hundred fifty dollars (\$250.00) paid or incurred in connection with items listed in this subdivision. This deduction is allowed only to the extent the expense has not been claimed under section 162 of the Code for the taxable year. For purposes of this subdivision, the term "eligible educator" has the same meaning as defined in section 62 of the Code, as it existed on December 31, 2011. In the case of a married couple filing a joint return where both spouses are eligible educators, the maximum dollar amount is five hundred dollars (\$500.00).

- a. Books.
- b. Supplies, other than nonathletic supplies for courses of instruction in health or physical education.
- c. Computer equipment, including related software and services.
- d. Supplementary materials used by the eligible educator in the classroom."

SECTION 2.(b) This section becomes effective for taxable years beginning on or after January 1, 2012.

CLARIFY AND EXTEND THE PERIOD OF TIME TO APPLY FOR A SALES TAX REFUND OF AVIATION FUEL PURCHASED BY AN INTERSTATE PASSENGER AIR CARRIER BETWEEN JANUARY 1, 2010, AND JUNE 30, 2011

SECTION 3.(a) For calendar year 2010, an interstate passenger air carrier that is eligible for a refund of sales and use taxes paid on fuel in excess of two million five hundred thousand dollars (\$2,500,000) under G.S. 105-164.14(a1) and G.S. 105-164.14A(a)(1) is subject to the provisions of this section, notwithstanding any provisions of G.S. 105-164.14, G.S. 105-164.14A, or Section 4 of S.L. 2010-166 to the contrary. Notwithstanding the fact that the first six months of 2010 are subject to G.S. 105-164.14(a1) and the last six months of 2010 are subject to G.S. 105-164.14A(a)(1), a taxpayer shall submit one request for a refund for the entire calendar year.

SECTION 3.(b) An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of one million two hundred fifty thousand dollars (\$1,250,000) for the period January 1, 2011, through June 30, 2011. The State portion of the refund may not exceed three million one hundred fifty thousand dollars (\$3,150,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). A request for a refund must be in writing and must include any information and documentation required by the Secretary. The request for a refund is due before October 1, 2012. A refund applied for after the due date is barred.

SECTION 3.(c) Subsection (b) of this section is effective January 1, 2011, and applies to purchases made on or after that date. The remainder of this section is effective when it becomes law.

PERMIT MONEYS FROM THE INDUSTRIAL DEVELOPMENT FUND TO BE USED FOR SEWER IMPROVEMENTS IN ADJOINING COUNTIES

SECTION 4. G.S. 143B-437.01(a) reads as rewritten:

"(a) Creation and Purpose of Fund. – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating and retaining jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

- (1) The funds shall be used for (i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed industrial buildings to be used for eligible industries. To be eligible for funding, the water, ~~sewer,~~ gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity. To be eligible for funding, the sewer infrastructure shall be located on the

site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity, even if the sewer infrastructure is located in a county other than the county in which the building is located.

...."

TEMPORARY 20-YEAR CARRYFORWARD FOR ARTICLE 3J TAX CREDITS IF THE TAXPAYER INVESTS MORE THAN ONE HUNDRED MILLION DOLLARS IN A TIER ONE COUNTY

SECTION 5. Notwithstanding the investment requirement of G.S. 105-129.84(c), if the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with an eligible business within a two-year period, at least one hundred million dollars (\$100,000,000) worth of business and real property in a development tier one area, any unused portion of a credit under Article 3J of Chapter 105 of the General Statutes with respect to the establishment that satisfies that condition may be carried forward for the succeeding 20 years. If the taxpayer does not make the required level of investment, the taxpayer shall apply the five-year carryforward period rather than the 20-year carryforward period. This section is effective for taxable years beginning on or after January 1, 2012, and expires for taxable years beginning on or after January 1, 2013.

TECHNICAL CORRECTION FOR THE PORT ENHANCEMENT ZONE DESIGNATION

SECTION 6.(a) G.S. 143B-437.013(a) reads as rewritten:

"(a) Port Enhancement Zone Defined. – A port enhancement zone is an area that meets all of the following conditions:

- (1) It is comprised of part or all of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census.
- (2) All of the area is located within 25 miles of a State port and is capable of being used to enhance port operations.
- (3) Every census tract and census block group that comprises the area has at least eleven percent (11%) of households with incomes of fifteen thousand dollars (\$15,000) or less."

SECTION 6.(b) This section is effective for taxable years beginning on or after January 1, 2013.

ONE-YEAR SALES TAX REFUND FOR PURCHASES OF SPECIALIZED EQUIPMENT USED AT STATE PORTS

SECTION 7. For purchases made on or after July 1, 2012, but before July 1, 2013, a company located at a ports facility for waterborne commerce that purchases specialized equipment to be used at the facility to unload or process bulk cargo to make it suitable for delivery to and use by manufacturing facilities is allowed a refund of all local sales and use taxes paid and a portion of State sales and use taxes paid on the purchases as provided in this section. The portion of the State sales and use taxes that may be refunded is equal to the excess of the State sales and use taxes paid over the amount that would have been due had the taxpayer been subject to tax on the eligible property as if it were mill machinery under Article 5F of Chapter 105 of the General Statutes. A request for a refund under this section must be in writing and must include any information and documentation required by the Secretary. A request for a refund under this section must be made on or after July 1, 2013, and is due before January 1, 2014. Refunds applied for after the due date are barred. Taxes for which a refund is allowed under this section are not an overpayment of tax and do not accrue interest as provided in G.S. 105-241.21.

EFFECTIVE DATE

SECTION 8. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:19 p.m. on the 26th day of June, 2012.

Session Law 2012-75**S.B. 491**

AN ACT TO EXTEND THE SUNSET ON THE LAW ESTABLISHING THE NORTH CAROLINA SUSTAINABLE LOCAL FOOD ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2009-530 reads as rewritten:

"SECTION 4. This act is effective when it becomes law and shall expire on July 31, ~~2012-2015.~~"

SECTION 2. G.S. 106-831 reads as rewritten:

"§ 106-831. (For expiration date, see note) The North Carolina Sustainable Local Food Advisory Council; creation; membership; terms.

(a) Council Established; Membership. – The North Carolina Sustainable Local Food Advisory Council is hereby created within the Department of Agriculture and Consumer Services. The Council shall consist of 27 members as follows:

- (1) The Commissioner of Agriculture or the Commissioner's designee, ex officio.
- (2) The State Health Director or the State Health Director's designee, ex officio.
- (3) The Secretary of Commerce or the Secretary's designee, ex officio.
- (4) Two local organic food producers, one of which is an organic animal producer and one of which is an organic crop producer, to be appointed by the Speaker of the House of Representatives.
- (5) Two local conventional food producers, one of which is an animal producer and one of which is a crop producer, to be appointed by the Commissioner of Agriculture.
- (6) Two local sustainable food producers, one of which is an animal producer and one of which is a crop producer, to be appointed by the Commissioner of Agriculture.
- (7) One representative of the commercial fishing industry, to be appointed by the President Pro Tempore of the Senate.
- (8) One representative of the NC State Grange, to be appointed by the Speaker of the House of Representatives.
- (9) One representative of the North Carolina Farm Bureau Federation, Inc., to be appointed by the Speaker of the House of Representatives.
- (10) One representative of the Sea Grant College Program at The University of North Carolina, to be appointed by the President Pro Tempore of the Senate.
- (11) One representative of the Carolina Farm Stewardship Association, to be appointed by the Governor.
- (12) One representative of the Center for Environmental Farming Systems, a partnership among North Carolina State University, North Carolina Agricultural and Technical State University, and the Department of Agriculture and Consumer Services, to be appointed by the Governor.
- (13) One representative of the North Carolina Association of Black Lawyers' Land Loss Prevention Project, Inc., to be appointed by the Commissioner of Agriculture.

- (14) One representative of the Appalachian Sustainable Agriculture Project, to be appointed by the President Pro Tempore of the Senate.
- (15) One representative of the Center for Community Action, Inc., to be appointed by the Commissioner of Agriculture.
- (16) One representative of the North Carolina Association of County Commissioners, to be appointed by the President Pro Tempore of the Senate.
- (17) One representative of the Department of Public Instruction, Child Nutrition Services Section, to be appointed by the President Pro Tempore of the Senate.
- (18) One representative of the North Carolina Cooperative Extension Service, jointly administered by North Carolina State University and North Carolina Agricultural and Technical State University, to be appointed by the Governor.
- (19) One representative of the Center for Health Promotion and Disease Prevention at the University of North Carolina at Chapel Hill, to be appointed by the President Pro Tempore of the Senate.
- (20) One representative of a food bank located in North Carolina, to be appointed by the Governor.
- (21) One representative of the food retail or food service industry, to be appointed by the Governor.
- (22) One representative of the ~~North Carolina Farm Transition Network, Inc.~~ Conservation Trust for North Carolina, to be appointed by the Speaker of the House of Representatives.
- (23) One representative of the North Carolina Rural Economic Development Center, Inc., to be appointed by the Speaker of the House of Representatives.
- (24) One representative of a business engaged in the processing, packaging, or distribution of food, to be appointed by the Speaker of the House of Representatives, in consultation with the NC Agribusiness Council.

...."

SECTION 3. G.S. 106-832 reads as rewritten:

"§ 106-832. (For expiration date, see note) The North Carolina Sustainable Local Food Advisory Council; duties.

In developing sustainable local food programs and policies for North Carolina, the Council may consider any of the following programmatic and policy issues:

- (1) An in-depth assessment of the foods that are served to public school students under the National School Lunch Program and the School Breakfast Program, including the possibility of increasing the amount of sustainable local food used in these programs.
- (2) An in-depth analysis of the possibility of making sustainable local food available under public assistance programs, including the possibility of being able to use food stamps at local farmers markets.
- (3) An in-depth analysis of the possibility of promoting urban gardens and backyard gardens for the purpose of improving the health of citizens, making use of idle urban property, and lowering food costs for North Carolina urban dwellers during times of economic hardship.
- (4) An in-depth analysis of the potential impacts that the production of sustainable local food would have on economic development in North Carolina, both the direct impacts for the producers of sustainable local food and the actual and potential indirect impacts, such as encouraging restaurants that feature locally raised agricultural products and promoting food and wine tourism.

- (5) Issues regarding how local and regional efforts could promote a sustainable local food economy by providing an information and engagement center that would assist entrepreneurs and farmers in working around any current barriers and in pursuing opportunities related to a sustainable local food economy.
- (6) Issues regarding the identification and development of solutions to regulatory and policy barriers to developing a strong sustainable local food economy.
- (7) Issues regarding strengthening local infrastructure and entrepreneurial efforts related to a sustainable local food economy.
- (8) ~~Any other program and policy issues the Council considers pertinent."~~

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:21 p.m. on the 26th day of June, 2012.

Session Law 2012-76

S.B. 518

AN ACT TO REQUIRE LANDLORDS TO GIVE NOTICE TO THE NORTH CAROLINA STATE BAR OF AN ATTORNEY'S DEFAULT ON A LEASE IN ORDER TO PROTECT THE CONFIDENTIALITY OF THE ATTORNEY'S FILES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 42 of the General Statutes is amended by adding a new section to read as follows:

"§ 42-14.4. Notice to State Bar of attorney default on lease.

(a) If a landlord has actual knowledge that a tenant is an attorney, the landlord shall deliver notice to the North Carolina State Bar (hereinafter "State Bar") at least 15 days prior to the destruction or discard of any "potentially confidential materials" remaining in the premises after the landlord obtains possession of the premises, whether by summary ejectment under Article 3 of this Chapter or by any other means, including the tenant vacating the premises. For purposes of this section, the term "potentially confidential materials" means client files, trust or operating account records, or other materials relating to client matters. For purposes of this section, the term "landlord" means any owner and any rental management company, rental agency, or any other person having the actual or apparent authority of an agent to perform the duties imposed by this Article. The landlord's notice to the State Bar shall contain the name of the attorney who is presumed to be the tenant, the location of the potentially confidential materials, and a phone number, address, or other means to contact the landlord. During the 15-day period after notice, a landlord may move for storage purposes, but shall not throw away, dispose of, or sell, potentially confidential materials remaining in the premises.

(b) The State Bar or its designee may take possession of the materials, at its sole expense, within the 15-day period provided for in subsection (a) of this section without the necessity of a court order. Upon the request of the State Bar, the landlord shall cooperate with and allow the State Bar to take possession of the potentially confidential materials, and the landlord shall not be liable in any way to the tenant for his or her cooperation. However, if the tenant elects to take possession of the potentially confidential materials prior to the State Bar obtaining possession of them, and there is no court order to the contrary having been previously delivered to the landlord, the landlord may deliver possession of the potentially confidential materials to the tenant and shall promptly notify the State Bar of his or her actions. If neither the State Bar nor its designee takes possession of the potentially confidential materials within the 15-day period provided for in subsection (a) of this section, the landlord may destroy or discard the materials in accordance with the lease agreement with the defaulting tenant.

(c) A landlord that attempts in good faith to comply with the requirements of this section shall not be liable for losses to any person arising directly or indirectly out of the disposal of any potentially confidential materials. Failure to comply with this section shall not constitute an unfair trade practice under G.S. 75-1.1."

SECTION 2. G.S. 44A-2 is amended by adding a new subsection to read as follows:

"(h) Any landlord of nonresidential property, including any storage or self-storage space, in which potentially confidential materials, as that term is defined in G.S. 42-14.4(a), remain after the landlord has obtained possession of the property must provide notice to the North Carolina State Bar and comply with the provisions of G.S. 42-14.4, if the landlord has actual knowledge that the former tenant is an attorney. Potentially confidential materials shall not be the subject of a lien under the provisions of this Article."

SECTION 3. This act becomes effective October 1, 2012.

In the General Assembly read three times and ratified this the 20th day of June, 2012.

Became law upon approval of the Governor at 4:24 p.m. on the 26th day of June, 2012.

Session Law 2012-77

S.B. 724

AN ACT TO IMPLEMENT VARIOUS EDUCATION REFORMS.

The General Assembly of North Carolina enacts:

TEACHER PREPARATION

SECTION 1. G.S. 115C-296 reads as rewritten:

"§ **115C-296. Board sets licensure requirements; reports; lateral entry and mentor programs.**

...

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel certified in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several certification requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs. The certification program shall provide for initial certification after completion of preservice training, continuing certification after three years of teaching experience, and certificate renewal every five years thereafter, until the retirement of the teacher. The last certificate renewal received prior to retirement shall remain in effect for five years after retirement. The certification program shall also provide for lifetime certification after 50 years of teaching.

The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina, the North Carolina Independent Colleges and Universities, and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

To further ensure that teacher preparation programs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall ensure students preparing to teach in elementary schools (i) have adequate coursework in the teaching of reading and mathematics; (ii) are assessed prior to certification to determine that they

possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's expectations; (iii) continue to receive preparation in applying formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student improvement; and (iv) are prepared to integrate arts education across the curriculum.

The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing certification. The new requirements shall reflect more rigorous standards for continuing certification and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement.

The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher certificates. The State Board shall consider modifications in the certificate renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills. The State Board shall adopt new standards for the renewal of teacher certificates by May 15, 1998.

The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide performance reports to the State Board of Education. The performance reports shall follow a common format, shall be submitted according to a plan developed by the State Board, and shall include the information required under the plan developed by the State Board.

...

(c1) The State Board of Community Colleges may provide a program of study for lateral entry teachers to complete the coursework necessary to earn a teaching license. To this end, the State Board of Education, in consultation with the State Board of Community Colleges, shall establish a competency-based program of study for lateral entry teachers to be implemented within the Community College System no later than May 1, 2006. This program must meet standards set by the State Board of Education. To ensure that programs of study for lateral entry remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board of Education shall ensure that (i) adequate coursework in the teaching of reading and mathematics is available for lateral entry teachers seeking certification in elementary education; (ii) lateral entry teachers are assessed prior to certification to determine that they possess the requisite knowledge in scientifically based reading and mathematics instruction that is aligned with the State Board's expectations; (iii) all lateral entry teachers continue to receive preparation in applying formative and summative assessments within the school and classroom setting through technology-based assessment systems available in North Carolina schools that measure and predict expected student improvement; and (iv) are prepared to integrate arts education across the curriculum.

The State Board of Community Colleges and the State Board of Education shall jointly identify the community college courses and the teacher education program courses that are necessary and appropriate for inclusion in the community college program of study for lateral

entry teachers. To the extent possible, any courses that must be completed through an approved teacher education program shall be taught on a community college campus or shall be available through distance learning.

In order to participate in the community college program of study for lateral entry teachers, an individual must hold at least a bachelors degree from a regionally accredited institution of higher education.

An individual who successfully completes this program of study and meets all other requirements of licensure set by the State Board of Education shall be recommended for a North Carolina teaching license.

...."

ENHANCE USE OF EVAAS

SECTION 2. G.S. 115C-105.27(a) reads as rewritten:

"(a) In order to improve student performance, each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35 and the goals set out in the mission statement for the public schools adopted by the State Board of Education. The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school shall constitute a school improvement team to develop a school improvement plan to improve student performance. Representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants shall be elected by their respective groups by secret ballot. Unless the local board of education has adopted an election policy, parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. Parents serving on school improvement teams shall reflect the racial and socioeconomic composition of the students enrolled in that school and shall not be members of the building-level staff. Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with teachers, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation.

All school improvement plans shall be, to the greatest extent possible, data-driven. School improvement teams shall use the Education Value Added Assessment System (EVAAS) or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for ~~problems and problems~~, to determine actions to address ~~them~~ them, and to appropriately place students in courses such as Algebra I. School improvement plans shall contain clear, unambiguous targets, explicit indicators and actual measures, and expeditious time frames for meeting the measurement standards."

PRESCHOOL PROGRAMS FOR AT-RISK CHILDREN

SECTION 3. It is a goal of the General Assembly to provide preschool programs to all at-risk children.

TRANSITION TEAMS FOR AT-RISK CHILDREN

SECTION 4. G.S. 115C-105.41 reads as rewritten:

"§ **115C-105.41. Students who have been placed at risk of academic failure; personal education ~~plans~~; plans; transition teams and transition plans.**

(a) Local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning no later than the fourth grade. Identification shall occur as early as can reasonably be done and can be based on grades, observations, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and

administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed or updated for any student at risk of academic failure who is not performing at least at grade level, as identified by the State end-of-grade test and other factors noted above. Focused intervention and accelerated activities should include research-based best practices that meet the needs of students and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Local school administrative units shall give notice of the personal education plan and a copy of the personal education plan to the student's parent or guardian. Parents should be included in the implementation and ongoing review of personal education plans. If a student's school report card provides all the information required in a personal education plan, then no further personal education plan is mandated for the student.

Local school administrative units shall certify that they have complied with this section annually to the State Board of Education. The State Board of Education shall periodically review data on the progress of identified students and report to the Joint Legislative Education Oversight Committee.

No cause of action for monetary damages shall arise from the failure to provide or implement a personal education plan under this section.

(b) Local boards of education shall adopt and implement plans for the creation of transition teams and transition plans for students at risk, as defined by the State Board of Education, to assist them in making a successful transition between the elementary school and middle school years and between the middle school and high school years."

END SUNSET TO LEA "BASIS OF KNOWLEDGE" ABOUT A CHILD WITH A DISABILITY

SECTION 5. Section 5 of S.L. 2010-36 reads as rewritten:

~~"SECTION 5. Section 3 of this act becomes effective January 1, 2009, and expires June 1, 2013-2009. The remainder of this act is effective when it becomes law."~~

STUDY GRADUATION REQUIREMENTS FOR STUDENTS WHO DO NOT PLAN TO CONTINUE EDUCATION BEYOND HIGH SCHOOL

SECTION 6. The State Board of Education shall reconsider the high school graduation requirements for students who do not plan to continue education beyond high school. For some of these students, a five-year program might be needed in order for them to meet graduation requirements. For other students, a reassessment of existing requirements might be in order to determine what, at a minimum, is needed for a sound, basic education and whether the current graduation requirements are reasonable for students not planning to continue education beyond high school.

The State Board of Education shall report the results of this study to the Joint Legislative Education Oversight Committee by March 15, 2013.

STATEWIDE EDUCATION INITIATIVES

SECTION 7.(a) Consistent with Section 7.8 of S.L. 2010-31, to continue the State's progress in increasing student achievement, graduation rates, and students' career- and college-readiness, by August 31, 2014, the State Board of Education shall implement the statewide education reform initiatives described in the State's successful Race to the Top application. These initiatives shall include the following:

- (1) Transition to new standards and assessments. – The State Board shall continue to provide for professional development designed to ensure that all teachers understand and are prepared to help students meet the new common core and essential standards, and are able to use related summative assessments effectively and appropriately to measure students' attainment of those standards.
- (2) Establishment of an Instructional Improvement System. – The State Board shall establish a statewide Instructional Improvement System that will use technology to provide portals for students, teachers, parents, and school and district administrators to access data and resources to inform decision making related to instruction, assessment, and career and college goals.
- (3) Establishment of the North Carolina education cloud technology infrastructure. – As the next wave of the successful School Connectivity Initiative, the State Board shall provide statewide shared education technology infrastructure, services, and tools for school districts and charter schools to achieve robust, reliable service and cost-effectiveness.
- (4) Full rollout and enhancement of the North Carolina Educator Evaluation System. – The State Board shall continue to provide professional development designed to ensure that all teachers and principals are prepared to use the statewide Educator Evaluation System, which is being enhanced through a collaborative, multiyear development process to include formal, standard measures of the extent to which educators facilitate growth in student achievement.
- (5) Provision of performance incentives to teachers in the lowest-achieving schools to improve recruitment and retention. – In order to improve recruitment and retention of effective teachers in the lowest-achieving schools, the State Board shall provide teachers in those schools opportunities to earn school and/or classroom-level incentives based on student performance.
- (6) Establishment of regional leadership academies. – The State Board shall establish three leadership academies to increase the number of principals qualified to lead transformational change in lowest-achieving schools in both rural and urban areas.
- (7) Expansion of teacher recruitment and licensure programs to support low-performing schools. – The State Board shall increase the number of Teach for America teachers in lowest-achieving districts and schools; establish the NC Teacher Corps, modeled after Teach for America, to further increase the number of effective teachers in lowest-achieving districts and schools; and establish a new Induction Support Program for New Teachers that will provide comprehensive support for novice teachers in low-achieving districts and schools.
- (8) Provision of effective teachers for schools through virtual and blended courses. – The State Board shall develop a model through which to develop and deploy virtual and blended Science, Technology, Engineering, and Math (STEM) courses to give students at risk of low performance in core math and science subjects access to effective teachers and innovative instructional approaches.
- (9) Provision of aligned professional development and establishment of professional development system. – The State Board shall do the following:

- a. Create, train, and support a cadre of teacher and principal professional development leaders to establish sustainable local and regional professional development capacity statewide.
 - b. Develop resources (for workshops, professional learning communities, virtual courses, webinars, etc.) to support effective professional development activities.
 - c. Provide professional development regarding new standards and assessments, teacher and principal evaluation tools, data literacy, and use of any new technology tools created through the Race to the Top initiatives.
 - d. Expand online professional development infrastructure to provide high-quality online professional development accessible to all educators statewide.
 - e. Evaluate professional development activities to determine the impact on teaching practices and student achievement, and to inform continuous improvement of professional development activities.
- (10) Expansion of District and School Transformation work to turn around the lowest-achieving schools. – The State Board shall expand its successful District and School Transformation services to reach more schools and districts needing intensive, multiyear support to build capacity for sustained improvement.
- (11) Establish STEM thematic high schools and network. – The State Board shall establish four STEM anchor schools, each focused on an area of North Carolina economic development, and use the anchor schools as centers for professional development, curriculum development, technology use, and innovation in order to support the spread of STEM focus in North Carolina schools.

SECTION 7.(b) The State Board of Education shall report to the Joint Education Oversight Committee by September 15, 2012, and semiannually thereafter through September 15, 2014, on the State Board's progress toward implementing the above initiatives.

SECTION 7.(c) This section expires July 1, 2014. The State Board of Education may continue any initiatives identified in this section if it receives continued funding for the initiatives.

EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 19th day of June, 2012.

Became law upon approval of the Governor at 4:26 p.m. on the 26th day of June, 2012.

Session Law 2012-78

S.B. 749

AN ACT TO AMEND THE STATE'S LAWS PERTAINING TO TRANSPORTATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(s) reads as rewritten:

"(s) Notwithstanding the requirements of subsection (b1) of this section that an applicant present a valid social security number, the Division shall issue a drivers license of limited duration, under subsection (f) of this section, to an applicant present in the United States who holds valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States if the applicant presents that valid documentation and meets all other requirements for a license of

limited duration. Notwithstanding the requirements of subsection (n) of this section addressing background colors and borders, a drivers license of limited duration issued under this section shall bear a distinguishing mark or other designation on the face of the license clearly denoting the limited duration of the license."

SECTION 2. G.S. 20-51(6) reads as rewritten:

"(6) Any trailer or semitrailer attached to and drawn by a properly licensed motor vehicle when used by a farmer, his tenant, agent, or employee in transporting unginced cotton, peanuts, soybeans, corn, hay, tobacco, silage, cucumbers, potatoes, all vegetables, fruits, greenhouse and nursery plants and flowers, Christmas trees, livestock, live poultry, animal waste, pesticides, seeds, fertilizers or chemicals purchased or owned by the farmer or tenant for personal use in implementing husbandry, irrigation pipes, loaders, or equipment owned by the farmer or tenant from place to place on the same farm, from one farm to another, from farm to gin, from farm to dryer, or from farm to market, and when not operated on a for-hire basis. The term "transporting" as used herein shall include the actual hauling of said products and all unloaded travel in connection therewith."

SECTION 3. G.S. 20-51 is amended by adding a new subdivision to read:

"(17) A header trailer when transported to or from a dealer, or after a sale or repairs, to the farm or another dealership."

SECTION 4. G.S. 20-88 is amended by adding a new subsection to read:

"(m) Any vehicle weighing greater than the limits found in G.S. 20-118(b), as authorized by G.S. 20-118(c)(12), (c)(14), and (c)(15), must be registered for the maximum weight allowed for the vehicle configuration as listed in G.S. 20-118(b). A vehicle driven in violation of this subsection is subject to the axle group penalties set out in G.S. 20-118(e). The penalties apply to the amount by which the vehicle's maximum gross weight as listed in G.S. 20-118(b) exceeds its declared weight."

SECTION 5. G.S. 20-116(j) reads as rewritten:

"(j) Nothing in this section shall be construed to prevent the operation of self-propelled grain combines or other self-propelled farm equipment with or without implements, not exceeding 25 feet in width 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.~~ unless the operation violates a provision of this subsection. 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. Combines or equipment which exceed 10 feet in width may be operated only if they meet all of the conditions listed in this subsection. A violation of one or more of these conditions does not constitute negligence per se.

- (1) The equipment may only be operated during daylight hours.
- (2) The equipment must display a red flag on front and rear ~~ends.~~ ends or a flashing warning light. ~~The flags shall not be smaller than three feet wide and four feet long. The flags or lights shall be attached to a stick, pole, staff, etc., not less than four feet long and they shall be attached to 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 or lights 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 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) Repealed by Session Laws 2008-221, s. 6, effective September 1, 2008.
- (6) When the equipment is causing a delay in traffic, the operator of the equipment shall move the equipment off the paved portion of the highway at the nearest practical location until the vehicles following 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.
- (8) Equipment covered by this subsection shall not be operated on 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 without authorization from the North Carolina Department of Transportation. The Department shall develop an authorization process and approve routes under the following conditions:
- a. Persons shall submit an application to the Department requesting authorization to operate equipment covered by this subsection on a particular route that is part of 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.
 - b. The Department shall have a period of 30 days from receipt of a complete application to approve or reject the application. A complete application shall be deemed approved if the Department does not take action within 30 days of receipt by the Department; such a route may then be used by the original applicant.
 - c. The Department shall approve an application upon a showing that the route is necessary to accomplish one or more of the following:
 1. Prevent farming operations from traveling more than five miles longer than the requested route during the normal course of business.
 2. Prevent excess traffic delays on local or secondary roads.
 3. Allow farm equipment access due to dimension restrictions on local or secondary roads.
 - d. For applications that do not meet the requirements of sub-subdivision c. of this subdivision, the Department may also approve an application upon review of relevant safety factors.
 - e. The Department may consult with the North Carolina State Highway Patrol, the North Carolina Department of Agriculture and Consumer Services, or other parties concerning an application.
 - f. Any approved route may be subject to any of the following additional conditions:
 1. A requirement that the subject equipment be followed by a flag vehicle with flashing lights that shall be operated at all times on the route so as to be visible from a distance of at least 300 feet.
 2. Restrictions on maximum and minimum speeds of the equipment.

- 3. Restrictions on the maximum dimensions of the equipment.
- 4. Restrictions on the time of day that the equipment may be operated on the approved route.
- g. The Department shall publish all approved routes, including any conditions on the routes' use, and shall notify appropriate State and local law enforcement officers of any approved route.
- h. Once approved for use and published by the Department, a route may be used by any person who adheres to the route, including any conditions on the route's use imposed by the Department.
- i. The Department may revise published routes as road conditions on the routes change."

SECTION 6. G.S. 20-118(c) reads as rewritten:

"(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and 20-118(e).

...

- (5) The light-traffic road limitations provided for pursuant to subdivision (b)(4) of this section do not apply to a vehicle while that vehicle is transporting only the following from its point of origin on a light-traffic road to either one of the two nearest highways that is not a light-traffic road. If that vehicle's point of origin is a non-light-traffic road and that road is blocked by light-traffic roads from all directions and is not contiguous with other non-light-traffic roads, then the road at point of origin is treated as a light-traffic road for purposes of this subdivision:
 - a. Processed or unprocessed seafood transported from boats or any other point of origin to a processing plant or a point of further distribution.
 - b. ~~Meats~~ Meats, live poultry, or agricultural crop products transported from a farm to a processing plant or first-market.
 - c. Forest products originating and transported from a farm or from woodlands to ~~first-market~~ without interruption or delay for further packaging or processing after initiating transport.
 - d. Livestock or live poultry transported from their point of origin to a processing plant or ~~first-market~~.
 - e. Livestock by-products or poultry by-products transported from their point of origin to a rendering plant.
 - f. Recyclable material transported from its point of origin to a scrap-processing facility for processing. As used in this subpart, the terms "recyclable material" and "processing" have the same meaning as in G.S. 130A-290(a).
 - g. Garbage collected by the vehicle from residences or garbage dumpsters if the vehicle is fully enclosed and is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters. As used in this subpart, the term "garbage" does not include hazardous waste as defined in G.S. 130A-290(a), spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5, or radioactive material as defined in G.S. 104E-5.
 - h. Treated sludge collected from a wastewater treatment facility.
 - i. Apples when transported from the orchard to the first processing or packing point.

- j. ~~Trees grown as Christmas trees from the field, farm, stand, or grove~~ grove, and other forest products, including chips and bark, to first a processing point.
 - k. Water, fertilizer, pesticides, seeds, fuel, and animal waste transported to or from a farm by a farm vehicle as defined in G.S. 20-37.16(e)(3).
- ...
- (12) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions set out below:
- a. ~~Is hauling agricultural crops from the farm where the crop is grown to any market~~ transporting any of the following items within 150 miles of that farm, or is hauling live poultry from the farm where the live poultry is raised to any processing facility within 150 miles of that farm, the point of origination:
 - 1. Agriculture crop products transported from a farm to a processing plant or market.
 - 2. Water, fertilizer, pesticides, seeds, fuel, or animal waste transported to or from a farm by a farm vehicle as defined in G.S. 20-37.16(e)(3).
 - 3. Meats, livestock, or live poultry transported from the farm where they were raised to a processing plant or market.
 - 4. Forest products originating and transported from a farm or woodlands to market with delay interruption or delay for further packaging or processing after initiating transport.
 - 5. Wood residuals, including wood chips, sawdust, mulch, or tree bark from any site.
 - 6. Raw logs to market.
 - 7. Trees grown as Christmas trees from field, farm, stand, or grove to a processing point.
 - 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. Meets any of the following vehicle configurations:
 - 1. Does not exceed a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
 - 2. Consists of a five or more axle combination vehicle that does not exceed a single-axle weight of 26,000 pounds, a tandem-axle weight of 44,000 pounds and a gross weight of 90,000 pounds, with a length of at least 48 feet between the center of axle one and the center of the last axle of the vehicle and a minimum of 11 feet between the center of axle one and the center of axle two of the vehicle.
 - 3. Consists of a two-axle vehicle that does not exceed a gross weight of 37,000 pounds and a single-axle weight of no more than 27,000 pounds, with a length of at least 14 feet between the center of axle one and the center of axle two of the vehicle.
 - d. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.~~

...

- (14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:
- a. Is hauling aggregates from a distribution yard or a State-permitted production site located within a North Carolina county contiguous to the North Carolina State border to a destination in another state adjacent to that county as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.
 - b. Does not operate on an interstate highway or exceed any posted bridge weight limits.
 - c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single power unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply, and vehicles must be licensed in accordance with G.S. 20-88.
 - d. Repealed by Session Laws 2001-487, s. 10, effective December 16, 2001.
 - e. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.~~
- (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; 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; or is hauling animal waste products from the animal waste storage site to a farm or field 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 exceed any posted bridge weight limits.
 - 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.
 - e. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.~~

...."

SECTION 7. G.S. 20-118.4 reads as rewritten:

"§ 20-118.4. Firefighting equipment exempt from size and weight restrictions while transporting or moving heavy equipment in an emergency; for emergency response and preparedness and fire prevention; permits.

(a) ~~Exemption From Weight and Size Restrictions During Emergency Response Restrictions.~~ – Any overweight or oversize vehicle owned and operated by a State or local government or cooperating federal agency is exempt from the weight and size restrictions of this Chapter and implementing rules while it is actively engaged in (i) a response to a fire under

the authority of a forest ranger pursuant to G.S. 106-899(a); (ii) a county request for forest protection assistance pursuant to G.S. 106-906; (iii) a request for assistance under a state of emergency declared pursuant to G.S. 14-288.12, 14-288.13, 14-288.14, 14-288.15, and any other applicable statutes and provisions of common law; (iv) a request for assistance under a disaster declared pursuant to G.S. 166A-6 or ~~G.S. 166A-8~~, G.S. 166A-8; or (v) performance of other required duties for emergency preparedness and fire prevention, when the vehicle meets the following conditions:

- (1) The vehicle weight does not exceed the manufacturer's GVWR or 90,000 pounds gross weight, whichever is less.
- (2) The tri-axle grouping weight does not exceed 50,000 pounds, tandem axle weight does not exceed 42,000 pounds, and the single axle weight does not exceed 22,000 pounds.
- (3) A vehicle/vehicle combination does not exceed 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

(b) **Marking, Lighting, and Bridge Requirements.** – Vehicle/vehicle combinations subject to an exemption or permit under this section shall not be exempt from the requirement of a yellow banner on the front and rear measuring a total length of seven feet by 18 inches bearing the legend "Oversize Load" in 10 inch black letters 1.5 inches wide, and red or orange flags measuring 18 inches square to be displayed on all sides at the widest point of load. In addition, when operating between sunset and sunrise, flashing amber lights shall be displayed on each side of the load at the widest point. Vehicle/vehicle combinations subject to an exemption or permit under this section shall not exceed posted bridge limits without prior approval from the Department of Transportation.

(c) **Definition of "Response."** – A response lasts from the time an overweight or oversize vehicle is requested until the vehicle is returned to its base location and restored to a state of readiness for another response.

(c1) **Definition of "Preparedness and Fire Prevention."** – Movement of equipment for the purpose of hazardous fuel reduction, training, equipment maintenance, pre-suppression fire line installation, fire prevention programs, and equipment staging. In order to qualify for the exception in subsection (a) of this section, equipment must remain configured during movement for one or more of these purposes.

(d) **Discretionary Annual or Single Trip Permit for Emergency Response by a Commercial Vehicle.** – The Department of Transportation may, in its discretion, issue an annual or single trip special use permit waiving the weight and size restrictions of this Chapter and implementing rules for a commercial overweight or oversize vehicle actively engaged in a response to a fire or a request for assistance from a person authorized to direct emergency operations. The Department of Transportation may condition the permit with safety measures that do not unreasonably delay a response. The Department of Transportation may issue the single trip special use permit upon verbal communication, provided the requestor submits appropriate documentation and fees on the next business day.

(e) **No Liability for Issuance of Permit Under This Section.** – The action of issuing a permit by the Department of Transportation under this section is a governmental function and does not subject the Department of Transportation to liability for injury to a person or damage to property as a result of the activity."

SECTION 8. G.S. 20-127 reads as rewritten:

"§ **20-127. Windows and windshield wipers.**

...

(b) **Window Tinting Restrictions.** – A window of a vehicle that is operated on a highway or a public vehicular area shall comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Provided, however, an untinted clear film which does not obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle

may be applied to the windshield. Any other window of the vehicle may be tinted in accordance with the following restrictions:

- (1) The total light transmission of the tinted window shall be at least thirty-five percent (35%). A vehicle window that, by use of a light meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.
- (2) The light reflectance of the tinted window shall be twenty percent (20%) or less.
- (3) Tinted film or another material used to tint the window shall be nonreflective and shall not be red, yellow, or amber.

(b1) Notwithstanding subsection (b) of this section, a window of a vehicle that is operated on a public street or highway and which is subject to the provisions of Part 393 of Title 49 of the Code of Federal Regulations shall comply with the provisions of that Part.

(c) Tinting Exceptions. – The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle windows:

- (1) A window of an excursion passenger vehicle, as defined in G.S. 20-4.01(27)a.
- ~~(2) A window of a for-hire passenger vehicle, as defined in G.S. 20-4.01(27)b.~~
- ~~(3) A window of a common carrier of passengers, as defined in G.S. 20-4.01(27)c.~~
- (4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.
- (5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.
- (6) The rear window of a property-hauling vehicle, as defined in G.S. 20-4.01(31).
- (7) A window of a limousine.
- (8) A window of a law enforcement vehicle.
- (9) A window of a multipurpose vehicle that is behind the driver of the vehicle. A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or fewer passengers and either is constructed on a truck chassis or has special features designed for occasional off-road operation. A minivan and a pickup truck are multipurpose vehicles.
- (10) A window of a vehicle that is registered in another state and meets the requirements of the state in which it is registered.
- (11) A window of a vehicle for which the Division has issued a medical exception permit under subsection (f) of this section.

...."

SECTION 9. G.S. 20-137.4A is amended by adding a new subsection to read:

"(a1) Motor Carrier Offense. – It shall be unlawful for any person to operate a commercial motor vehicle subject to Part 390 or 392 of Title 49 of the Code of Federal Regulations on a public street or highway or public vehicular area while using a mobile telephone or other electronic device in violation of those Parts. Nothing in this subsection shall be construed to prohibit the use of hands-free technology."

SECTION 10. G.S. 20-383 reads as rewritten:

"§ 20-383. Inspectors and officers given enforcement authority.

Only designated ~~inspectors and officers~~ inspectors, officers, and personnel of the Department of ~~Crime Control and~~ Public Safety shall have the authority to enforce the provisions of this Article and provisions of Chapter 62 applicable to motor transportation, and they are empowered to make complaint for the issue of appropriate warrants, information, presentments or other lawful process for the enforcement and prosecution of violations of the transportation laws against all offenders, whether they be regulated motor carriers or not, and to

appear in court or before the North Carolina Utilities Commission and offer evidence at the trial pursuant to such processes."

SECTION 11. G.S. 136-28.5 is amended by adding a new subsection to read:

"(c) Notwithstanding G.S. 132-1, bids and documents submitted in response to an advertisement or request for proposal under this Chapter shall not be public record until the Department issues a decision to award or not to award the contract."

SECTION 12. G.S. 136-89.213(a) reads as rewritten:

"§ **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~~ information, including confidential information under subsection (a1) of this section, 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.

(a1) 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.~~ Act. The Authority shall maintain the confidentiality of all information required to be kept confidential under 18 U.S.C. § 2721(a), as well as any financial information, transaction history, and information related to the collection of a toll or user fee from a person, including, but not limited to, photographs or other recorded images or automatic vehicle identification or driver account information generated by radio-frequency identification or other electronic means. Notwithstanding the provisions of this section:

- (1) The account holder may examine his own account information, and the Authority may use the account information only for purposes of collecting and enforcing tolls.
- (2) A party, by authority of a proper court order, may inspect and examine confidential account information."

SECTION 13. G.S. 20-118(c)(16) reads as rewritten:

"(16) 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 unhardened ready-mixed concrete.
- b. Does not operate on an interstate highway or a posted light-traffic road, or exceed any posted bridge weight limits.
- c. ~~Does not exceed a maximum gross weight of 66,000 pounds on a three-axle vehicle with a single axle.~~ Has a single steer axle weight of no more than 22,000 pounds, pounds and a tandem-axle weight of no more than 46,000 pounds, pounds.
- d. Does not exceed a maximum gross weight of 66,000 pounds on a three-axle vehicle with a length of at least 21 feet between the center of axle one and the center of axle three of the vehicle.
- e. Does not exceed a maximum gross weight of 72,600 pounds on a four-axle vehicle with a length of at least 36 feet between the center of axle one and the center of axle four. The four-axle vehicle shall have a maximum gross weight of 66,000 pounds on axles one, two, and three with a length of at least 21 feet between the center of axle one and the center of axle three. For

For purposes of this subdivision, no additional weight allowances as found in this section shall apply for the gross weight, single-axle weight, and tandem-axle weight, and the tolerance allowed by subsection (h) of this section shall not apply."

SECTION 14. G.S. 147-86.23 reads as rewritten:

"§ 147-86.23. **Interest and penalties.**

A State agency shall charge interest at the rate established pursuant to G.S. 105-241.21 on a past-due account receivable from the date the account receivable was due until it is paid. A State agency shall add to a past-due account receivable a late payment penalty of no more than ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty for good cause shown. If another statute requires the payment of interest or a penalty on a past-due account receivable, this section does not apply to that past-due account receivable. This section does not apply to money owed to the University of North Carolina Health Care System for health care ~~services-services~~ or to the North Carolina Turnpike Authority for money owed to the Authority for tolls."

SECTION 15. Notwithstanding 19A NCAC 02D .0607(e)(3), the Department of Transportation may permit sealed ship containers as nondivisible loads as allowed by Federal Highway Administration policy. All Department of Transportation permitting rules applied to other nondivisible loads shall also apply to sealed ship containers.

SECTION 16. The Department of Transportation shall initiate the process to conform the North Carolina Administrative Code to this act by striking the words "not to exceed 94,500 pounds" from the first sentence of 19A NCAC 02D .0607(e)(3).

SECTION 17. The provisions of S.L. 2009-345, as they apply to ferry vessels operated by the North Carolina Department of Transportation, become effective June 30, 2013.

SECTION 18. Prosecutions for offenses committed before the effective date of the section of this act that modifies the offense are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

SECTION 19. Section 11 of this act becomes effective July 1, 2012, and applies to bids and documents submitted for advertisements and requests for proposal that are advertised or requested on or after that date. Section 1 of this act becomes effective January 1, 2013, and applies to drivers licenses issued on or after that date. Sections 8 and 9 of this act become effective December 1, 2012, 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 21st day of June, 2012.

Became law upon approval of the Governor at 4:28 p.m. on the 26th day of June, 2012.

Session Law 2012-79

S.B. 826

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE TAX AND RELATED LAWS.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CHANGES

SECTION 1.1. G.S. 105-130.5(b) reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

- ...
- (14) The amount by which the basis of a depreciable asset is required to be reduced under the Code for federal tax purposes because of a tax credit allowed against the corporation's federal income tax ~~liability-liability~~ or because of a grant allowed under section 1603 of the American Recovery and Reinvestment Tax Act of 2009, P.L. 111-3. This deduction may be claimed only in the year in which the Code requires that the asset's basis be

reduced. In computing gain or loss on the asset's disposition, this deduction shall be considered as depreciation.

...."

SECTION 1.2. G.S. 105-134.5 reads as rewritten:

"§ **105-134.5.** (Effective for taxable years beginning on or after January 1, 2012) **North Carolina taxable income defined.**

...
 (b) **Nonresidents.** – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in G.S. 105-134.6, multiplied by a fraction the denominator of which is the taxpayer's ~~adjusted~~ gross income as modified in G.S. 105-134.6, and the numerator of which is the amount of that ~~adjusted~~ gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) **Part-year Residents.** – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes ~~adjusted~~ gross income, as modified under G.S. 105-134.6, derived from all sources during the period the individual was a resident.

...."

SECTION 1.3. G.S. 105-134.6 reads as rewritten:

"§ **105-134.6.** (Effective for taxable years beginning on or after January 1, 2012) **Modifications to adjusted gross income.**

...
 (a2) **Deduction Amount.** – In calculating North Carolina taxable income, a taxpayer may deduct either the North Carolina standard deduction amount listed in the table below for that taxpayer's filing status or the itemized deductions amount claimed under the Code. The North Carolina standard deduction amount is the lesser of the amount shown in the table below or the amount allowed under the Code. In the case of a married couple filing separate returns, a taxpayer may not deduct the standard deduction amount if the taxpayer or the taxpayer's spouse claims itemized deductions for State purposes.

A taxpayer that deducts the standard deduction amount under this subsection and is entitled to an additional deduction amount under section 63(f) of the Code for the aged or blind may deduct an additional amount under this subsection. The additional amount the taxpayer may deduct is six hundred dollars (\$600.00) in the case of an individual who is married and seven hundred fifty dollars (\$750.00) in the case of an individual who is not married and is not a surviving spouse. The taxpayer is allowed the same number of additional amounts that the taxpayer claimed under the Code for the taxable year.

Filing Status	Standard Deduction
Married, filing jointly	\$6,000
Head of Household	4,400
Single	3,000
Married, filing separately	3,000.

...."

SECTION 1.4. G.S. 105-164.13 reads as rewritten:

"§ **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, digital property, and services are specifically exempted from the tax imposed by this Article:

- ...
- (11) Any of the following fuel:
- a. Motor fuel, as ~~defined in G.S. 105-449.60, taxed in Article 36C of this Chapter,~~ except motor fuel for which a refund of the per gallon excise tax is allowed under G.S. 105-449.105A or G.S. 105-449.107.
 - b. Alternative fuel taxed under Article 36D of this Chapter, unless a refund of that tax is allowed under G.S. 105-449.107.

- ...
- (49) Installation charges when the charges are separately stated on ~~the an~~ invoice or similar billing document given to the purchaser at the time of sale.
- (49a) Delivery charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser. ~~purchaser~~ at the time of sale.

...."

SECTION 1.5. The title of Article 5F of Chapter 105 of the General Statutes reads as rewritten:

"Article 5F.

~~Manufacturing Fuel and~~ Certain Machinery and Equipment."

SECTION 1.6. The catchline of G.S. 105-187.70, as enacted by Section 6 of S.L. 2011-122, reads as rewritten:

"§ 105-187.70. Department comply with Article 43 of Chapter 62A of the General Statutes."

SECTION 1.7.(a) G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2011,~~ January 1, 2012, including any provisions enacted as of that date that become effective either before or after that date."

SECTION 1.7.(b) This section is effective when it becomes law. Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted after January 1, 2011, that increase North Carolina taxable income for the 2011 taxable year become effective for taxable years beginning on or after January 1, 2012.

SECTION 1.8. G.S. 105-263(a) reads as rewritten:

"(a) Mailed Document. – ~~Section Sections 7502 and 7503~~ of the Code governs govern when a return, report, payment, or any other document that is mailed to the Department is timely filed."

SECTION 1.9. G.S. 105-277.1F(a)(1) reads as rewritten:

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

- (1) ~~G.S. 105-275(12)f., real property held for future transfer to government unit for conservation purposes.~~ G.S. 105-275(12), real property owned by a nonprofit corporation held as a protected natural area."

SECTION 1.10. G.S. 105-468 reads as rewritten:

"§ 105-468. Scope of use tax.

The use tax authorized by this Article is a tax at the rate of one percent (1%) of the cost price of each item or article of tangible personal property that is not sold in the taxing county but is used, consumed, or stored for use or consumption in the taxing county. The tax applies to the same items that are subject to tax under G.S. 105-467.

Every retailer who is engaged in business in this State and in the taxing county and is required to collect the use tax levied by G.S. 105-164.6 shall collect the one percent (1%) use tax when the property is to be used, consumed, or stored in the taxing county. The use tax contemplated by this section shall be levied against the purchaser, and the purchaser's liability for the use tax shall be extinguished only upon payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the Secretary, where the retailer is not required to collect the tax.

Where a local sales or use tax was due and has been paid with respect to tangible personal property by the ~~purchaser, either purchaser~~ in another taxing county within the State, or where a local sales or use tax was due and has been paid in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this Article, the tax paid may be credited against the tax imposed under this section by a taxing county upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due the taxing county under this section, the purchaser shall pay to the Secretary an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in the taxing county. The Secretary may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary. The use tax levied under this Article is not subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this Article."

SECTION 1.11. G.S. 160A-536(e)(2) reads as rewritten:

"(2) The city must receive a petition signed by at least sixty percent (60%) of the lot owners of the owners' association requesting the city to establish a municipal service district for the purpose of paying the costs related to converting private residential streets to public streets. The executive board of an owners' association for which the city has received a petition under this subsection may transfer street-related common elements to the city, notwithstanding the provisions of either the North Carolina Planned Community Act in Chapter 47F of the General Statutes, ~~Statutes or the North Carolina Condominium Act in Chapter 47C of the General Statutes,~~ or related articles of declaration, deed covenants, or any other similar document recorded with the Register of Deeds."

SECTION 1.12.(a) G.S. 20-63 reads as rewritten:

"(b1) **(Effective until July 1, 2016)** The following special registration plates do not have to be a "First in Flight" plate as provided in subsection (b) of this section. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification. When the Division registers a vehicle or renews the registration of a vehicle on or after July 1, 2015, the Division must send the owner a replacement special license plate in a standardized format in accordance with subsection (b) of this section and G.S. 20-79.4(a3).

- (1) Friends of the Great Smoky Mountains National Park.
- (2) Rocky Mountain Elk Foundation.
- (3) Blue Ridge Parkway Foundation.
- (4) Friends of the Appalachian Trail.
- (5) NC Coastal Federation.
- (6) In God We Trust.
- (7) Stock Car Racing Theme.
- (8) Buddy Pelletier Surfing Foundation.
- (9) Guilford Battleground Company.
- (10) National Wild Turkey Federation.
- (11) North Carolina Aquarium Society.
- (12) First in Forestry.
- (13) North Carolina Wildlife Habitat Foundation.
- (14) NC Trout Unlimited.
- (15) Ducks Unlimited.
- (16) Lung Cancer Research.
- (17) NC State Parks.
- (18) Support Our Troops.
- (19) US Equine Rescue League.

- (20) Fox Hunting.
- (21) Back Country Horsemen of North Carolina.
- (22) Hospice Care.
- (23) Home Care and Hospice.
- (24) NC Tennis Foundation.
- (25) AIDS Awareness.
- (26) Donate Life.
- (27) Farmland Preservation.
- (28) Travel and Tourism.
- (29) Battle of Kings Mountain.
- (30) NC Civil War.
- (31) North Carolina Zoological Society.
- (32) United States Service Academy.
- (33) Carolina Raptor Center.
- (34) Carolinas Credit Union Foundation.
- (35) North Carolina State Flag.
- (36) NC Mining.
- (37) Coastal Land Trust.
- (38) ARTS NC.
- (39) Choose Life.
- (40) North Carolina Green Industry Council.
- (41) NC Horse Council.
- (42) Core Sound Waterfowl Museum and Heritage Center.
- (43) Mountains-to-Sea Trail, Inc."

SECTION 1.12.(b) G.S. 20-79.7(a) reads as rewritten:

"§ 20-79.7. Fees for special registration plates and distribution of the fees.

(a) Fees. – Upon request, the Division shall provide and issue free of charge a single Legion of Valor, 100% Disabled Veteran, and Ex-Prisoner of War registration plate to a recipient of a Legion of Valor award, a 100% disabled veteran, and an ex-prisoner of war each year. The preceding special registration plates are subject to the regular motor vehicle registration fees in G.S. 20-88, if the registered weight of the vehicle is greater than 6,000 pounds. All other special registration plates are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
American Red Cross	\$30.00
Animal Lovers	\$30.00
Arthritis Foundation	\$30.00
ARTS NC	\$30.00
Back Country Horsemen of NC	\$30.00
Boy Scouts of America	\$30.00
Brenner Children's Hospital	\$30.00
Carolina Raptor Center	\$30.00
Carolinas Credit Union Foundation	\$30.00
Carolinas Golf Association	\$30.00
Coastal Conservation Association	\$30.00
Coastal Land Trust	\$30.00
Crystal Coast	\$30.00
Daniel Stowe Botanical Garden	\$30.00
El Pueblo	\$30.00
Farmland Preservation	\$30.00
First in Forestry	\$30.00
Girl Scouts	\$30.00
Greensboro Symphony Guild	\$30.00

Historical Attraction	\$30.00
Home Care and Hospice	\$30.00
Home of American Golf	\$30.00
HOMES4NC	\$30.00
Hospice Care	\$30.00
In God We Trust	\$30.00
Maggie Valley Trout Festival	\$30.00
<u>Morgan Horse Club</u>	<u>\$30.00</u>
Mountains-to-Sea Trail	\$30.00
NC Civil War	\$30.00
NC Coastal Federation	\$30.00
NC Veterinary Medical Association	\$30.00
National Kidney Foundation	\$30.00
North Carolina 4-H Development Fund	\$30.00
North Carolina Emergency Management Association	\$30.00
North Carolina Green Industry Council	\$30.00
North Carolina Libraries	\$30.00
Outer Banks Preservation Association	\$30.00
Pamlico-Tar River Foundation	\$30.00
P.E.O. Sisterhood	\$30.00
Personalized	\$30.00
Retired Legislator	\$30.00
Ronald McDonald House	\$30.00
Share the Road	\$30.00
S.T.A.R.	\$30.00
State Attraction	\$30.00
Stock Car Racing Theme	\$30.00
Support NC Education	\$30.00
Support Our Troops	\$30.00
<u>Sustainable Fisheries</u>	<u>\$30.00</u>
Toastmasters Club	\$30.00
Topsail Island Shoreline Protection	\$30.00
Travel and Tourism	\$30.00
AIDS Awareness	\$25.00
Buffalo Soldiers	\$25.00
Choose Life	\$25.00
Collegiate Insignia	\$25.00
First in Turf	\$25.00
Goodness Grows	\$25.00
High School Insignia	\$25.00
Kids First	\$25.00
National Multiple Sclerosis Society	\$25.00
National Wild Turkey Federation	\$25.00
NC Agribusiness	\$25.00
NC Children's Promise	\$25.00
Nurses	\$25.00
Olympic Games	\$25.00
Rocky Mountain Elk Foundation	\$25.00
Special Olympics	\$25.00
Support Soccer	\$25.00
Surveyor Plate	\$25.00
The V Foundation for Cancer Research Division	\$25.00
University Health Systems of Eastern Carolina	\$25.00

Alpha Phi Alpha Fraternity	\$20.00
ALS Association, Jim "Catfish" Hunter Chapter	\$20.00
ARC of North Carolina	\$20.00
Audubon North Carolina	\$20.00
Autism Society of North Carolina	\$20.00
Battle of Kings Mountain	\$20.00
Be Active NC	\$20.00
Brain Injury Awareness	\$20.00
Breast Cancer Earlier Detection	\$20.00
Buddy Pelletier Surfing Foundation	\$20.00
Concerned Bikers Association/ABATE of North Carolina	\$20.00
Daughters of the American Revolution	\$20.00
Donate Life	\$20.00
Ducks Unlimited	\$20.00
Greyhound Friends of North Carolina	\$20.00
Guilford Battleground Company	\$20.00
Harley Owners' Group	\$20.00
Jaycees	\$20.00
Juvenile Diabetes Research Foundation	\$20.00
Kappa Alpha Order	\$20.00
Litter Prevention	\$20.00
March of Dimes	\$20.00
Morgan Horse Club	\$20.00
Native American	\$20.00
NC Fisheries Association	\$20.00
NC Horse Council	\$20.00
NC Mining	\$20.00
NC Tennis Foundation	\$20.00
NC Trout Unlimited	\$20.00
NC Victim Assistance	\$20.00
NC Wildlife Federation	\$20.00
NC Wildlife Habitat Foundation	\$20.00
NC Youth Soccer Association	\$20.00
North Carolina Master Gardener	\$20.00
Omega Psi Phi Fraternity	\$20.00
Phi Beta Sigma Fraternity	\$20.00
Piedmont Airlines	\$20.00
Prince Hall Mason	\$20.00
Save the Sea Turtles	\$20.00
Scenic Rivers	\$20.00
School Technology	\$20.00
SCUBA	\$20.00
Soil and Water Conservation	\$20.00
Special Forces Association	\$20.00
Support Public Schools	\$20.00
Sustainable Fisheries	\$20.00
US Equine Rescue League	\$20.00
USO of NC	\$20.00
Wildlife Resources	\$20.00
Zeta Phi Beta Sorority	\$20.00
Carolina Regional Volleyball Association	\$15.00
Carolina's Aviation Museum	\$15.00
Leukemia & Lymphoma Society	\$15.00

Lung Cancer Research	\$15.00
NC Beekeepers	\$15.00
Shag Dancing	\$15.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Gold Star Lapel Button	None
Legion of Valor	None
Purple Heart Recipient	None
All Other Special Plates	\$10.00."

SECTION 1.13.(a) The General Assembly makes the following findings:

- (1) Section 1.3 of S.L. 2010-147 was intended to address concerns about the stringency of the environmental impact test used in determining eligibility for credits under Article 3J of Chapter 105 of the General Statutes.
- (2) The General Assembly purposefully decided to adjust that standard retroactively to January 1, 2007, the effective date of Article 3J of Chapter 105 of the General Statutes.
- (3) By retroactively changing this standard, the General Assembly intended to address instances where the application of this standard had resulted in a finding that a taxpayer was ineligible for credits contrary to the intent of the General Assembly in enacting the original legislation.
- (4) The General Assembly intended for taxpayers to receive the benefits of this retroactive change.
- (5) The provisions of G.S. 105-129.84(d) that require a taxpayer to claim a credit under Article 3J of Chapter 105 of the General Statutes within six months after the date set by statutes for the filing of return had the effect of limiting the benefits of this retroactive change.

SECTION 1.13.(b) Notwithstanding the provisions of G.S. 105-129.84(d), for the 2007 through 2010 taxable years, a taxpayer that satisfies all of the following conditions may claim a credit under Article 3J of Chapter 105 of the General Statutes on an amended return that is filed before January 1, 2013:

- (1) The taxpayer did not timely claim a credit under Article 3J of Chapter 105 of the General Statutes.
- (2) The taxpayer would have been ineligible to claim a credit under Article 3J of Chapter 105 of the General Statutes because it failed to meet the environmental impact standard under G.S. 105-129.83(e) prior to the enactment of S.L. 2010-147.
- (3) The taxpayer satisfies the environmental impact standard under G.S. 105-129.83(e) after the enactment of S.L. 2010-147.

SECTION 1.13.(c) This section is effective when it becomes law.

SECTION 1.14.(a) G.S. 105-122(b1) reads as rewritten:

"(b1) Definitions. – The following definitions apply in subsection (b) of this section:

- (1) Affiliate. – The same meaning as specified in G.S. ~~405-130.6~~105-130.2.
- (2) Indebtedness. – All loans, credits, goods, supplies, or other capital of whatsoever nature furnished by a parent, subsidiary, or affiliated corporation, other than indebtedness endorsed, guaranteed, or otherwise supported by one of these corporations.
- (3) Parent. – The same meaning as specified in G.S. ~~405-130.6~~105-130.2.
- (4) Subsidiary. – The same meaning as specified in G.S. ~~405-130.6~~105-130.2."

SECTION 1.14.(b) G.S. 105-130.2 reads as rewritten:

"§ 105-130.2. Definitions.

The following definitions apply in this Part:

- (1) Affiliate. – A corporation is an affiliate of another corporation when both are directly or indirectly controlled by the same parent corporation or by the same or associated financial interests by stock ownership, interlocking directors, or by any other means whatsoever, whether the control is direct or through one or more subsidiary, affiliated, or controlled corporations.
- (2) Code. – Defined in G.S. 105-228.90.
- ~~(1a)~~(3) Corporation. – A joint-stock company or association, an insurance company, a domestic corporation, a foreign corporation, or a limited liability company.
- ~~(1b)~~(4) C Corporation. – A corporation that is not an S Corporation.
- ~~(1e)~~(5) Department. – The Department of Revenue.
- ~~(2)~~ (6) Domestic corporation. – A corporation organized under the laws of this State.
- ~~(3)~~ (7) Fiscal year. – An income year, ending on the last day of any month other than December. A corporation that pursuant to the provisions of the Code has elected to compute its federal income tax liability on the basis of an annual period varying from 52 to 53 weeks shall compute its taxable income under this Part on the basis of the same period used by the corporation in computing its federal income tax liability for the income year.
- ~~(4)~~ (8) Foreign corporation. – Any corporation other than a domestic corporation.
- ~~(4a)~~(9) Gross income. – Defined in section 61 of the Code.
- ~~(4b)~~(10) Income year. – The calendar year or the fiscal year upon the basis of which the net income is computed under this Part. If no fiscal year has been established, the income year is the calendar year. In the case of a return made for a fractional part of a year under the provisions of this Part or under rules adopted by the Secretary, the income year is the period for which the return is made.
- ~~(5)~~ (11) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a corporation. As applied to a limited liability company that is a corporation under this Part, the term "shareholder" means a member of the limited liability company and the term "corporate officer" means a member or manager of the limited liability company.
- (12) Parent. – A corporation is a parent of another corporation when, directly or indirectly, it controls the other corporation by stock ownership, interlocking directors, or by any other means whatsoever exercised by the same or associated financial interests, whether the control is direct or through one or more subsidiary, affiliated, or controlled corporations.
- ~~(5a)~~(13) S Corporation. – Defined in G.S. 105-131(b).
- ~~(5b)~~(14) Secretary. – The Secretary of Revenue.
- ~~(5e)~~(15) State net income. – The taxpayer's federal taxable income as determined under the Code, adjusted as provided in G.S. 105-130.5 and, in the case of a corporation that has income from business activity that is taxable both within and without this State, allocated and apportioned to this State as provided in G.S. 105-130.4.
- (16) Subsidiary. – A corporation is a subsidiary of another corporation when, directly or indirectly, it is subject to control by the other corporation by stock ownership, interlocking directors, or by any other means whatsoever exercised by the same or associated financial interest, whether the control is

direct or through one or more subsidiary, affiliated, or controlled corporations.

~~(5d)~~(17) Taxable year. – Income year.

~~(6)~~ (18) Taxpayer. – A corporation subject to the tax imposed by this Part."

SECTION 1.14.(c) G.S. 105-130.14 reads as rewritten:

"§ **105-130.14. Corporations filing consolidated returns for federal income tax purposes.**

Any corporation electing or required to file a consolidated income tax return with the Internal Revenue Service must determine its State net income as if the corporation had filed a separate federal return and shall not file a consolidated or combined return with the Secretary unless one of the following applies:

- (1) The corporation is specifically directed in writing by the Secretary under G.S. ~~105-130.6~~ 105-130.5A to file a consolidated or combined return.
- (2) ~~The corporation's facts and circumstances meet the facts and circumstances described in a permanent rule adopted under G.S. 105-130.6 and the corporation files a consolidated or combined return in accordance with that rule.~~
- (3) Pursuant to a written request from the ~~corporation,~~ corporation under G.S. 105-130.5A, the Secretary has provided written advice to the corporation stating that the Secretary will ~~require~~ allow a consolidated or combined return under the facts and circumstances set out in the request and the corporation files a consolidated or combined return in accordance with that written advice."

SECTION 1.14.(d) G.S. 105-262(b) is repealed.

SECTION 1.14.(e) G.S. 153A-279(a)(1) reads as rewritten:

- "(1) "Claim" means a claim, action, suit, or request for damages, whether compensatory, punitive, or otherwise, made by any person or entity against:
- a. The County, a railroad, or an operating rights railroad; or
 - b. An officer, director, trustee, employee, parent, subsidiary, or affiliated corporation as defined in G.S. ~~105-130.6,~~ 105-130.2, or agent of: the County, a railroad, or an operating rights railroad."

SECTION 1.14.(f) G.S. 160A-326(a)(1) reads as rewritten:

- "(1) "Claim" means a claim, action, suit, or request for damages, whether compensatory, punitive, or otherwise, made by any person or entity against:
- a. The City, a railroad, or an operating rights railroad; or
 - b. An officer, director, trustee, employee, parent, subsidiary, or affiliated corporation as defined in G.S. ~~105-130.6,~~ 105-130.2, or agent of: the City, a railroad, or an operating rights railroad."

SECTION 1.14.(g) G.S. 160A-626(a)(1) reads as rewritten:

- "(1) "Claim" means a claim, action, suit, or request for damages, whether compensatory, punitive, or otherwise, made by any person or entity against:
- a. The Authority, a railroad, or an operating rights railroad; or
 - b. An officer, director, trustee, employee, parent, subsidiary, or affiliated corporation as defined in G.S. ~~105-130.6,~~ 105-130.2, or agent of: the Authority, a railroad, or an operating rights railroad."

PART II. CLARIFYING AND ADMINISTRATIVE CHANGES

SECTION 2.1. G.S. 105-113.38 reads as rewritten:

"§ **105-113.38. ~~Bond.~~ Bond or irrevocable letter of credit.**

The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes due under this Part. A bond shall be conditioned on compliance with this Part, shall be payable to the State, and shall be in the form required by the Secretary. The Secretary shall proportion a bond amount to the anticipated tax liability of the wholesale dealer or retail dealer. The Secretary

shall periodically review the sufficiency of bonds required of dealers, and shall increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer. The Secretary shall decrease the amount of a required bond when the Secretary determines that a smaller bond amount will adequately protect the State from loss. For purposes of this section, a bond may also include an irrevocable letter of credit."

SECTION 2.2.(a) G.S. 105-113.107(1a) reads as rewritten:

"(1a) At the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction thereof, of marijuana, other than separated stems and stalks taxed under subdivision (1) of this ~~section~~section, or synthetic cannabinoids."

SECTION 2.2.(b) This section becomes effective June 1, 2011.

SECTION 2.3. G.S. 105-120.2(c) reads as rewritten:

"(c) For purposes of this section, a "holding company" is a corporation that ~~receives~~ satisfies at least one of the following conditions:

(1) It has no assets other than ownership interests in corporations in which it owns, directly or indirectly, more than fifty percent (50%) of the outstanding voting stock or voting capital interests.

(2) It receives during its taxable year more than eighty percent (80%) of its gross income from corporations in which it owns directly or indirectly more than fifty percent (50%) of the outstanding voting stock or voting capital interests."

SECTION 2.4. G.S. 105-129.81(4) reads as rewritten:

"(4) Business property. – Tangible personal property that is used in a business and capitalized by the taxpayer for tax purposes under the Code."

SECTION 2.5. G.S. 105-152(e) reads as rewritten:

"(e) Joint Returns. – A husband and wife whose federal taxable income is determined on a joint federal return shall file a single income tax return jointly if each spouse either is a resident of this State or has North Carolina taxable income and may file a single income tax return jointly if one spouse is not a resident and has no North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse ~~has been relieved of~~ qualifies for relief of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone."

SECTION 2.6. G.S. 105-160.3(b) reads as rewritten:

"(b) The following credits are not allowed to an estate or trust:

- (1) G.S. 105-151. Tax credits for income taxes paid to other states by individuals.
- (2) G.S. 105-151.11. Credit for child care and certain employment-related expenses.
- (3) G.S. 105-151.18. Credit for the disabled.
- (4) G.S. 105-151.24. Credit for children.
- (5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.
- (6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.
- (7) G.S. 105-151.28. Credit for long-term care insurance.

- (8) **(Expires for taxable years beginning on or after January 1, 2013)**
G.S. 105-151.30. Credit for recycling oyster shells.
- (9) G.S. 105-151.31. Earned income tax credit.
- (10) G.S. 105-151.32. Credit for adoption expenses.
- (11) G.S. 105-151.33. Education expenses credit."

SECTION 2.7. G.S. 105-164.3 reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

- ...
- (25a) Over-the-counter drug. – A drug that ~~can be dispensed under federal law without a prescription and is~~ contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66-§ 201.66. The label includes either of the following:
 - a. ~~to have a label containing a~~ A "Drug Facts" panel ~~panel.~~
 - b. ~~and a~~ A statement of its active ingredients ~~ingredients with a list of those ingredients contained in the compound, substance, or preparation.~~
- ...
- (26b) Prepaid calling service. – A right that meets all of the following requirements:
 - a. Authorizes the exclusive purchase of telecommunications service.
 - b. Must be paid for in advance.
 - c. Enables the origination of calls by means of an access number, authorization code, or another similar means, regardless of whether the access number or authorization code is manually or electronically dialed.
 - d. Is sold in predetermined units or dollars whose number or dollar value declines with use and is known on a continuous basis.
- ...
- (27a) Prepaid wireless calling service. – A right that meets all of the following requirements:
 - a. Authorizes the purchase of mobile telecommunications service, either exclusively or in conjunction with other services.
 - b. Must be paid for in advance.
 - c. Is sold in predetermined units or dollars whose number or dollar value declines with use and is known on a continuous basis.
- ...
- (36) Sale or selling. – The transfer for consideration of ~~title~~ title, license to use or consume, or possession of tangible personal property or digital property or the performance for consideration of a service. The transfer or performance may be conditional or in any manner or by any means. The term includes the following:
 - a. Fabrication of tangible personal property for consumers by persons engaged in business who furnish either directly or indirectly the materials used in the fabrication work.
 - b. Furnishing or preparing tangible personal property consumed on the premises of the person furnishing or preparing the property or consumed at the place at which the property is furnished or prepared.
 - c. A transaction in which the possession of the property is transferred but the seller retains title or security for the payment of the consideration.
 - d. A lease or rental.
 - e. Transfer of a digital code.

...

(45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of ~~May 12, 2009~~December 19, 2011.

...."

SECTION 2.8. G.S. 105-164.4B(a) reads as rewritten:

"(a) General Principles. – The following principles apply in determining where to source the sale of a product. These principles apply regardless of the nature of the ~~product~~product, except as otherwise noted in this section:

- (1) ~~Over the counter.~~—When a purchaser receives a product at a business location of the seller, the sale is sourced to that business location.
- (2) ~~Delivery to specified address.~~—When a purchaser or purchaser's donee receives a product at a location specified by the purchaser and the location is not a business location of the seller, the sale is sourced to the location where the purchaser or the purchaser's donee receives the product.
- (3) ~~Delivery address unknown.~~—~~When a seller of a product does not know the address where a product is received, the sale is sourced to the first address or location listed in this subdivision that is known to the seller:~~

- a. ~~The business or home address of the purchaser.~~
- b. ~~The billing address of the purchaser or, if the product is prepaid wireless calling service, the location associated with the mobile telephone number.~~
- e. ~~The address from which tangible personal property was shipped or from which a service was provided.~~

(3) When subdivisions (1) and (2) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(4) When subdivisions (1), (2), and (3) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(5) When subdivisions (1), (2), (3), and (4) of this subsection do not apply, including the circumstance in which the seller is without sufficient information to apply the rules, the location will be determined based on the following:

- a. Address from which tangible personal property was shipped,
- b. Address from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or
- c. Address from which the service was provided."

SECTION 2.9. G.S. 105-164.7 reads as rewritten:

"§ 105-164.7. **Retailer to collect sales tax from purchaser as trustee for State.**

The sales tax imposed by this Article is intended to be passed on to the purchaser of a taxable item and borne by the purchaser instead of by the retailer. A retailer must collect the tax due on an item when the item is sold at retail. The tax is a debt from the purchaser to the retailer until paid and is recoverable at law by the retailer in the same manner as other debts. A retailer is considered to act as a trustee on behalf of the State when it collects tax from the purchaser of a taxable item. The tax must be stated and charged separately on the invoices or other documents of the retailer given to the purchaser at the time of the sale except for either of the following:

- (1) Vending machine sales.
- (2) Where a retailer displays a statement indicating the sales price includes the tax."

SECTION 2.10.(a) Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding the following new section:

"§ 105-164.12C. Items given away by merchants.

If a retailer engaged in the business of selling prepared food and drink for immediate or on-premises consumption also gives prepared food or drink to its patrons or employees free of charge, for the purpose of this Article, the property given away is considered sold along with the property sold. If a retailer gives an item of inventory to a customer free of charge on the condition that the customer purchase similar or related property, the item given away is considered sold along with the item sold. In all other cases, property given away or used by any retailer or wholesale merchant is not considered sold, whether or not the retailer or wholesale merchant recovers its cost of the property from sales of other property."

SECTION 2.10.(b) This section becomes effective August 7, 2009.

SECTION 2.11. G.S. 105-164.14(a) reads as rewritten:

"(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars and locomotives, and fuel, lubricants, repair parts, and accessories for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An "interstate carrier" is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

- (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts, and accessories purchased by the applicant inside or outside this State during the refund period.
- (2) The purchase price of the items listed in subdivision (1) of this subsection.
- (3) The sales and use taxes paid in this State on the listed items.
- (4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period. Airplane miles are not in this State if the airplane does not depart or land in this State.
- (5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ~~ratio of~~ mileage ratio. The numerator of the mileage ratio is the number of miles the applicant operated ~~its~~ all motor vehicles, railroad cars, locomotives, and airplanes in this State during the refund ~~period to~~ period. The denominator of the mileage ratio is the number of miles ~~it~~ the applicant operated ~~them~~ all motor vehicles, railroad cars, locomotives, and airplanes both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period."

SECTION 2.12. G.S. 105-164.27A reads as rewritten:

"§ 105-164.27A. Direct pay permit.

(a) General. – A general direct pay permit authorizes its holder to purchase any tangible personal property, digital property, or service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases an item under a direct pay permit issued under this subsection is liable for use tax due on the purchase. The tax is payable when the property is placed in use or the service is received. A direct pay permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4 on electricity.

A person who purchases an item for storage, use, or consumption in this State whose tax status cannot be determined at the time of the purchase because of one of the reasons listed below may apply to the Secretary for a general direct pay permit:

- (1) The place of business where the item will be ~~used~~ stored, used, or consumed is not known at the time of the purchase and a different tax consequence applies depending on where the item is used.
- (2) The manner in which the item will be ~~used~~ stored, used, or consumed is not known at the time of the purchase and one or more of the potential uses is taxable but others are not taxable.

...

(b) Telecommunications Service. – A direct pay permit for telecommunications service authorizes its holder to purchase telecommunications service and ancillary service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases these services under a direct pay permit must file a return and pay the tax due monthly or quarterly to the Secretary. A direct pay permit issued under this subsection does not apply to any tax other than the tax on telecommunications service and ancillary service.

A call center that purchases telecommunications service that originates outside this State and terminates in this State may apply to the Secretary for a direct pay permit for telecommunications service and ancillary service. A call center is a business that is primarily engaged in providing support services to customers by telephone to support products or services of the business. A business is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.

...."

SECTION 2.13. G.S. 105-187.43(b) reads a rewritten:

"(b) Prepayment. – A taxpayer who is consistently liable for at least ~~ten~~ twenty thousand dollars (~~\$10,000~~) (\$20,000) of tax a month must make a monthly prepayment of the next month's tax liability. This requirement applies when the taxpayer meets the threshold and the Secretary notifies the taxpayer to make prepayments. A prepayment is due on the date a monthly payment is due. The prepayment must equal at least sixty five percent (65%) of any of the following:

- (1) The amount of tax due for the current month.
- (2) The amount of tax due for the same month in the preceding year.
- (3) The average monthly amount of tax due in the preceding calendar year."

SECTION 2.14. G.S. 143-59.1(a) reads as rewritten:

"(a) Ineligible Vendors. – The Secretary of Administration and other entities to which this Article applies shall not contract for goods or services with either of the following:

- (1) A vendor if the vendor or an affiliate of the vendor if the Secretary of Revenue has determined that the vendor or affiliate of the vendor meets one or more of the conditions of G.S. 105-164.8(b) but refuses to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales delivered to North Carolina. The Secretary of Revenue shall provide the Secretary of Administration periodically with a list of vendors to which this section applies.

- (2) A vendor if the vendor or an affiliate of the vendor incorporates or reincorporates in a tax haven country after December 31, 2001, but the United States is the principal market for the public trading of the stock of the corporation incorporated in the tax haven country."

SECTION 2.15. G.S. 105-241(b)(2a) reads as rewritten:

- "(2a) Motor fuel taxes. – A taxpayer that ~~is required to file~~ files an electronic return under Subchapter V of this Chapter or Article 3 of Chapter 119 of the General Statutes must pay the tax by electronic funds transfer."

SECTION 2.16. Effective when it becomes law, but expiring at the same time as Section 1 of S.L. 2011-296 expires (currently July 1, 2013), G.S. 161-10(a), as rewritten by S.L. 2011-296, reads as rewritten:

"§ 161-10. **Uniform fees of registers of deeds.**

(a) Except as otherwise provided in 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:

- (1) Instruments in General. – For registering or filing any instrument for which no other provision is made by this section, the fee shall be twenty-six dollars (\$26.00) for the first 15 pages plus four dollars (\$4.00) for each additional page or fraction thereof.

~~When a subsequent instrument, as defined in G.S. 161-14.1(a)(3), is presented for registration with reference to more than one original instrument for which recording data are required to be indexed pursuant to G.S. 161-14.1(b), the fee shall be an additional twenty five dollars (\$25.00) for each additional reference. For any instrument that assigns more than one security instrument as defined in G.S. 45-36.4(18) by reference to previously recorded instrument recording data that are required to be indexed pursuant to G.S. 161-14.1(b), the fee shall be an additional ten dollars (\$10.00) for each additional reference.~~

When a document is presented for registration that consists of multiple instruments, the fee shall be an additional ten dollars (\$10.00) for each additional instrument. A document consists of multiple instruments when it contains two or more instruments with different legal consequences or intent, each of which is separately executed and acknowledged and could be recorded alone.

...."

SECTION 2.17.(a) G.S. 45-102(6) reads as rewritten:

- "(6) The address, telephone number, and other contact information for the ~~consumer complaint section~~ State Home Foreclosure Prevention Project of the Housing Finance Agency. ~~Office of Commissioner of Banks, or, alternatively, if the loan is serviced by a credit union, the address, telephone number, and other contact information for the consumer complaint section of the Credit Union Division.~~"

SECTION 2.17.(b) G.S. 45-103(a) reads as rewritten:

"(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, the due date of the last scheduled payment made by the borrower, and the date the notice was mailed to the borrower. The Administrative Office of the Courts shall establish an internal database to track information required by this section. The ~~Commissioner of Banks~~ Housing Finance Agency shall design and develop the State Home Foreclosure Prevention Project database, in consultation with the Administrative Office of the Courts. Only the Administrative Office of

the Courts, ~~the Office of Commissioner of Banks~~, the Housing Finance Agency, and the clerk of court as provided by G.S. 45-107 shall have access to the database."

SECTION 2.17.(c) G.S. 45-104 reads as rewritten:

"§ 45-104. State Home Foreclosure Prevention Project and Fund.

(a) ~~The Commissioner of Banks is authorized to establish the State Home Foreclosure Prevention Project.~~ The purpose of the State Home Foreclosure Prevention Project is to seek solutions to avoid foreclosures for home loans. ~~In developing the Project, the Commissioner~~ The Project may include input from HUD-approved housing counselors, community organizations, the Credit Union Division and other State agencies, mortgage lenders, mortgage servicers, and other partners. The Housing Finance Agency shall administer the Project.

(b) There is established a State Home Foreclosure Prevention Trust Fund to be managed and maintained by the Housing Finance Agency. The funds shall be held separate from any other funds received by ~~either the Office of the Commissioner of Banks or the Housing Finance Agency~~ in trust for the operation of the State Home Foreclosure Prevention Project.

(c) Upon the filing of the information required under G.S. 45-103, the mortgage servicer shall pay a fee of seventy-five dollars (\$75.00) to the State Home Foreclosure Prevention Trust Fund. The fee shall not be charged more than once for a home loan covered by this act. ~~The Office of the Commissioner of Banks~~ Housing Finance Agency shall collect the fee. Upon receipt of the fee the Housing Finance Agency ~~Commissioner~~ shall deposit the funds ~~into a separate account. The funds shall be transferred no less than monthly~~ into the State Home Foreclosure Prevention Trust Fund. The Housing Finance Agency shall manage the State Home Foreclosure Prevention Trust Fund.

(d) The Housing Finance Agency shall use funds from the State Home Foreclosure Prevention Trust Fund to compensate performance-based service contracts or other contracts and grants necessary to implement the purposes of this act in the following manner:

- (1) An amount, not to exceed the greater of two million two hundred thousand dollars (\$2,200,000) or thirty percent (30%) of the funds per year, to cover the administrative costs of the operation of the program by ~~the Office of the Commissioner of Banks and the~~ Housing Finance Agency, including managing on behalf of the Administrative Office of the Courts the database identified in G.S. 45-103, expenses associated with informing homeowners of State resources available for foreclosure prevention, expenses associated with connecting homeowners to available resources, and assistance to homeowners and counselors in communicating with mortgage servicers.
- (2) An amount, not to exceed the greater of three million four hundred thousand dollars (\$3,400,000) or forty percent (40%) per year, to make grants to or reimburse nonprofit housing counseling agencies for providing foreclosure prevention counseling services to homeowners involved in the State Home Foreclosure Prevention Project.
- (3) An amount, not to exceed thirty percent (30%) of the total funds collected per year, to make grants to or reimburse nonprofit legal service providers for services rendered on behalf of homeowners in danger of defaulting on a home loan to avoid foreclosure, limited to legal representation such as negotiation of loan modifications or other loan work-out solutions, defending homeowners in foreclosure or representing homeowners in bankruptcy proceedings, and research and counsel to homeowners regarding the status of their home loans.
- (4) Any funds remaining in the State Home Foreclosure Prevention Trust Fund as of June 30, 2011, and any funds remaining in the State Home Foreclosure Prevention Trust Fund upon the expiration of each subsequent fiscal year shall be directed to the North Carolina Housing Trust Fund.

(e) The Housing Finance Agency shall have the discretion to enter into an agreement to administer funds under subdivisions (2) and (3) of subsection (d) of this section in a manner that complements or supplements other State and federal programs directed to prevent foreclosures for homeowners participating in the State Home Foreclosure Prevention Project."

SECTION 2.17.(d) G.S. 45-105 reads as rewritten:

"§ 45-105. **Extension of foreclosure process.**

The ~~Commissioner of Banks upon referral from the~~ Housing Finance Agency shall review information provided in the database created by G.S. 45-103 to determine which home loans are appropriate for efforts to avoid foreclosure. If the ~~Commissioner~~ Housing Finance Agency 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~~ Executive Director of the Housing Finance Agency 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~~ Executive Director of the Housing Finance Agency makes the determination that a loan is subject to this section, the ~~Commissioner~~ Housing Finance Agency shall notify the borrower, mortgage servicer, and the Administrative Office of the Courts. ~~If the mortgage servicer is a state or federally chartered credit union, the Commissioner shall also notify the Administrator of the Credit Union Division of the determination."~~

SECTION 2.17.(e) G.S. 45-106 reads as rewritten:

"§ 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 and administered by the Housing Finance Agency 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. ~~Any notice provided by the Commissioner to the Administrator of the Credit Union Division under G.S. 45-105 is not a public record.~~ 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."

SECTION 2.17.(f) Section 5 of S.L. 2008-226 reads as rewritten:

"**SECTION 5.** The ~~Office of the Commissioner of Banks~~ Housing Finance Agency 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~~ State Home Foreclosure Prevention Trust Fund. 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~~ Housing Finance Agency determines is pertinent or that the General Assembly requests."

SECTION 2.17.(g) Section 6 of S.L. 2008-226, as amended by Section 9 of S.L. 2010-168, reads as rewritten:

"**SECTION 6.** Section 4 of this act becomes effective July 1, 2008. Sections 1, 2, 3, and 5 become effective November 1, 2008, ~~and expire May 31, 2013.~~ 2008. The remainder of this act is effective when it becomes law."

SECTION 2.17.(h) This section becomes effective December 1, 2012. The North Carolina Housing Finance Agency shall assume the responsibilities designated in this section for operation of the State Home Foreclosure Prevention Project no later than December 31, 2012.

SECTION 2.18.(a) G.S. 105-236 reads as rewritten:

"§ 105-236. Penalties; situs of violations; penalty disposition.

(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(3) Failure to File Return. – In case of failure to file any return on the date it is due, determined with regard to any extension of time for filing, the Secretary shall assess a penalty equal to five percent (5%) of the amount of the tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month, or fraction thereof, during which the failure continues, not exceeding twenty-five percent (25%) ~~in the aggregate, or five dollars (\$5.00), whichever is the greater aggregate.~~

(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty equal to ten percent (10%) of the ~~tax, subject to a minimum of five dollars (\$5.00).~~ tax. This penalty does not apply in any of the following circumstances:

- a. When the amount of tax shown as due on an amended return is paid when the return is filed.
- b. When the Secretary proposes an assessment for tax due but not shown on a return and the tax due is paid within 45 days after the later of the following:
 1. The date of the notice of proposed assessment of the tax, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
 2. The date the proposed assessment becomes collectible under one of the circumstances listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review of the proposed assessment.
- c. When a taxpayer timely files a consolidated or combined return at the request of the Secretary under Part 1 of Article 4 of this Chapter and the tax due is paid within 45 days after the latest of the following:
 1. The date the return is filed.
 2. The date of a notice of proposed assessment based on the return, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
 3. The date the Departmental review of the proposed assessment ends as a result of the occurrence of one of the actions listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review.

...."

SECTION 2.18.(b) This section becomes effective January 1, 2014.

SECTION 2.19.(a) G.S. 121-5(e) reads as rewritten:

"(e) ~~Program Funding. Archives and Records Management Fund. – The Archives and Records Management Fund is established as a special revenue fund. The Fund consists of the fees Fees credited to the Department it under G.S. 161-11.6 shall Chapter 161 of the General Statutes. Revenue in the Fund may be used only to offset the Department's costs in providing essential records management and archival services for public records pursuant to Chapter 121 and Chapter 132 of the General Statutes.~~"

SECTION 2.19.(b) This section becomes effective July 1, 2012.

PART III. MOTOR VEHICLE/PROPERTY TAX CHANGES**SECTION 3.1.** G.S. 105-321(f) reads as rewritten:

"(f) Minimal Taxes. – Notwithstanding the provisions of G.S. 105-380, the governing body of a taxing unit that collects its own taxes may, by resolution, direct its assessor and tax collector not to collect minimal taxes charged on the tax records and receipts. Minimal taxes are the combined taxes and fees of the taxing unit and any other units for which it collects taxes, due on a tax receipt prepared pursuant to G.S. 105-320 ~~or on a tax notice prepared pursuant to G.S. 105-330.5~~, in a total original principal amount that does not exceed an amount, up to five dollars (\$5.00), set by the governing body. The amount set by the governing body should be the estimated cost to the taxing unit of billing the taxpayer for the amounts due on a tax receipt or tax notice. Upon adoption of a resolution pursuant to this subsection, the tax collector shall not bill the taxpayer for, or otherwise collect, minimal taxes but shall keep a record of all minimal taxes by receipt number and amount and shall make a report of the amount of these taxes to the governing body at the time of the settlement. These minimal taxes shall not be a lien on the taxpayer's real property and shall not be collectible under Article 26 of this Subchapter. A resolution adopted pursuant to this subsection must be adopted on or before June 15 preceding the first taxable year to which it applies and remains in effect until amended or repealed by resolution of the taxing unit. A resolution adopted pursuant to this subsection shall not apply to taxes on registered motor vehicles."

SECTION 3.2. G.S. 105-330.2 reads as rewritten:

"§ 105-330.2. (Effective July 1, 2013 – See Editor's note) **Appraisal, ownership, and situs.**

...

(b1) Valuation Appeal. – The owner of a classified motor vehicle may appeal the appraised value ~~or taxability~~ of the vehicle by filing a request for appeal with the assessor within 30 days of the date taxes are due on the vehicle under G.S. 105-330.4. An owner who appeals the appraised value ~~or taxability~~ of a classified motor vehicle must pay the tax on the vehicle when due, subject to a full or partial refund if the appeal is decided in the owner's favor.

The combined tax and registration notice or tax receipt for a classified motor vehicle must explain the right to appeal the appraised value ~~and taxability~~ of the vehicle. A lessee of a vehicle that is required by the terms of the lease to pay the tax on the vehicle is considered the owner of the vehicle for purposes of filing an appeal under this subsection. Appeals filed under this subsection shall proceed in the manner provided by G.S. 105-312(d).

(b2) Exemption or Exclusion Appeal. – The owner of a classified motor vehicle may appeal the vehicle's eligibility for an exemption or exclusion by filing a request for appeal with the assessor within 30 days of the assessor's initial decision on the exemption or exclusion application filed by the owner pursuant to G.S. 105-330.3(b). Appeals filed under this subsection shall proceed in the manner provided by G.S. 105-312(d).

...."

SECTION 3.3. G.S. 105-330.3 reads as rewritten:

"§ 105-330.3. (Effective July 1, 2013 – See Editor's note) **Listing requirements for classified motor vehicles; application for exempt status.**

...

(a1) Unregistered Vehicles. – The owner of an unregistered classified motor vehicle must 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 owner acquired the unregistered vehicle 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 required to be listed pursuant to this subsection is registered during the calendar before the end of the fiscal year in for which it was listed, ~~the vehicle is taxed for the fiscal year that opens in the calendar year of listing as an unregistered vehicle.~~ required to be listed, the following applies:

- (1) The vehicle is taxed as a registered vehicle, and the tax assessed pursuant to this subsection for the fiscal year in which the vehicle was required to be listed shall be released and/or refunded.
- (2) For any months for which the vehicle was not taxed between the date the registration expired and the start of the current registered vehicle tax year, the vehicle is taxed as an unregistered vehicle as follows:
- a. The value of the motor vehicle is determined as of January 1 of the year in which the registration of the motor vehicle expires.
 - b. In computing the taxes, the assessor must use the tax rates and any additional motor vehicle taxes of the various taxing units in effect on the date the taxes are computed.
 - c. The tax on the motor vehicle is the product of a fraction and the number of months for which the vehicle was not taxed between the date the registration expires and the start of the current registered vehicle tax year. The numerator of the fraction is the product of the appraised value of the motor vehicle and the tax rate of the various taxing units. The denominator of the fraction is 12.
 - d. The taxes are due on the first day of the second month following the month the notice was prepared.
 - e. Interest accrues on unpaid taxes for these unregistered classified motor vehicles at the rate of five percent (5%) for the remainder of the month following the month the taxes are due. Interest accrues at the rate of three-fourths percent (3/4%) for each following month until the taxes are paid, unless the notice is prepared after the date the taxes are due. In that circumstance, the interest accrues beginning the second month following the date of the notice until the taxes are paid.
- (3) A vehicle required to be listed pursuant to this subsection that is not listed by January 31 and is not registered before the end of the fiscal year for which it was required to be listed is 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) Exemption or Exclusion. – 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~~ assessor within 30 days of the date taxes on the vehicle are due. When an approved application is on file, the assessor must omit from the tax records the classified motor vehicles described in the application. An application is not required for vehicles qualifying for the exemptions or exclusions listed in G.S. 105-282.1(a)(1). The remaining provisions of G.S. 105-282.1 do not apply to classified motor vehicles.

...."

SECTION 3.4. G.S. 105-330.4 reads as rewritten:

"§ 105-330.4. (Effective July 1, 2013 – See Editor's note) Due date, interest, and enforcement remedies.

...

(b) Subject to the provisions of G.S. 105-395.1, interest on unpaid taxes and registration fees on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) accrues at the rate of five percent (5%) for the remainder of the month following the date ~~month~~ in which the registration renewal sticker expired pursuant to G.S. 20-66(g). Interest accrues at the rate of three-fourths percent (3/4%) beginning the second month following the due date and for each month thereafter until the taxes and fees are paid, unless the notice required by G.S. 105-330.5 is prepared after the date the taxes and fees are due. In that circumstance, the interest accrues

beginning the second month following the date of the notice until the taxes and fees are paid. Subject to the provisions of G.S. 105-395.1, interest on delinquent taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2) accrues as provided in G.S. 105-360(a) and discounts shall be allowed as provided in G.S. 105-360(c).

(c) Remedies. – The enforcement remedies in this Subchapter apply to unpaid taxes on an unregistered classified motor vehicle. The enforcement remedies in this Subchapter do not apply to unpaid taxes on a registered classified motor ~~vehicle~~vehicle for which the tax year begins on or after August 1, 2013.

(d) Tax payments submitted by mail are deemed to be received as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark or if the postmark is not affixed by the United States Postal Service, the tax payment is deemed to be received when the payment is received ~~in the office of the tax collector~~by the collecting authority. In any dispute arising under this subsection, the burden of proof is on the taxpayer to show that the payment was timely made."

SECTION 3.5. G.S. 105-330.5(e) is repealed.

SECTION 3.6. Effective July 1, 2011, Section 13 of S.L. 2005-294, as amended by Section 31.5 of S.L. 2006-259, Section 22(b) of S.L. 2007-527, and Section 65 of S.L. 2008-134, 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, ~~2011, 2013~~, 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."

PART IV. EFFECTIVE DATE

SECTION 4.1. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:30 p.m. on the 26th day of June, 2012.

Session Law 2012-80

S.B. 841

AN ACT TO ENSURE THAT THE RESOURCES OF THE PROGRAM EVALUATION DIVISION ARE UTILIZED EFFECTIVELY BY THE GENERAL ASSEMBLY, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 120 of the General Statutes is amended by adding a new section to read:

"§ 120-36.17. Program Evaluation Division impact statement.

(a) Every bill and resolution introduced in the General Assembly proposing a study or evaluation by the Program Evaluation Division shall have attached to it at the time of its consideration by the General Assembly an impact statement prepared by the Division. The impact statement shall identify and estimate, to complete all studies and reports required by the bill or resolution, all of the following: (i) the number of personnel required; (ii) the total number of hours required; and (iii) the estimated costs.

- (1) If, after review, the Division determines that no estimates are possible, the impact statement shall contain a statement to that effect, setting forth the reasons why no estimate can be given.
- (2) The Division shall indicate whether the Division, based upon its current annual work plan, has adequate and sufficient resources to undertake the study or evaluation as part of the current annual work plan, and shall explain the basis for its determination.
- (3) If the Division determines that it would not be able to undertake the study or evaluation as part of its current annual work plan, it shall indicate a time frame in which it believes the study or evaluation could be accomplished.

(b) The sponsor of each bill or resolution to which this section applies shall present a copy of the bill or resolution with the request for an impact statement to the Program Evaluation Division. Upon receipt of the request and the copy of the bill or resolution, the Program Evaluation Division shall prepare the impact statement as promptly as possible, but shall transmit it to the sponsor within two weeks after the request is made, unless the sponsor agrees to an extension of time. If the impact statement is not transmitted within two weeks, or by the end of any extension of time as provided under this subsection, then there shall be no impact statement required under this section.

(c) This impact statement shall be attached to the original of each proposed bill or resolution that is reported favorably by any committee of the General Assembly, but shall be separate from the bill or resolution and shall be clearly designated as an impact statement. An impact statement attached to a bill or resolution pursuant to this subsection is not a part of the bill or resolution and is not an expression of legislative intent proposed by the bill or resolution.

(d) If a committee of the General Assembly reports favorably a proposed bill or resolution that directs the Program Evaluation Division to conduct a study or evaluation, the chair of the committee shall obtain from the Program Evaluation Division, and attach to the bill or resolution, an impact statement as provided in this section."

SECTION 2. G.S. 120-36.13(a) reads as rewritten:

"§ 120-36.13. Work plan and requests for program evaluation.

(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-law~~; however, notwithstanding any other provision of law, if the enacted legislation did not have an impact statement, as provided in G.S. 120-36.17, completed prior to its consideration by the General Assembly, then the study or evaluation shall be included in the next annual work plan adopted by the Committee and one year shall be added to any required reporting dates included in the legislation, except that the impact statement is not required and the evaluation may be included in the current work plan if the impact statement was not provided pursuant to the time requirements in G.S. 120-36.17(b).

The annual work plan constitutes an information request and a drafting request made by the Committee cochairs 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 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:33 p.m. on the 26th day of June, 2012.

Session Law 2012-81**S.B. 868**

AN ACT ADJUSTING THE DATES OF VALIDITY FOR LICENSES ISSUED BY THE WILDLIFE RESOURCES COMMISSION TO ELIMINATE THE PENALTY FOR EARLY RENEWAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-270.1B reads as rewritten:

"§ 113-270.1B. **License required to hunt, fish, or trap.**

(a) Except as otherwise specifically provided by law, no person may hunt, fish, trap, or participate in any other activity regulated by the Wildlife Resources Commission for which a license is provided by law without having first procured a current and valid license authorizing the activity.

(b) Except as indicated otherwise, all licenses are annual licenses valid ~~from the date of issue~~ for a period of 12 ~~months~~ months from the effective date printed on the face of the license.

(c) As used in this section, the term "effective date" means the later of:

(1) The date of purchase of a new license.

(2) The first day after the expiration of a currently valid license of the same type held by the licensee."

SECTION 2. This act becomes effective July 1, 2013.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:35 p.m. on the 26th day of June, 2012.

Session Law 2012-82**S.B. 869**

AN ACT TO REMOVE THE REQUIREMENT THAT FIREFIGHTERS AND RESCUE SQUAD WORKERS HAVE ONE YEAR OF CREDITABLE SERVICE IN ORDER TO QUALIFY FOR DISABILITY RETIREMENT BENEFITS UNDER THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM FOR INJURIES INCURRED IN THE LINE OF DUTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-27(c) reads as rewritten:

"(c) Disability Retirement Benefits. – Upon the application of a member or of his employer, any member who has had five or more years of creditable service may be retired by the Board of Trustees, on the first day of any calendar month, not less than one day nor more than 120 days next following the date of filing such application, on a disability retirement allowance: Provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent, and that such member should be retired; Provided further the medical board shall determine if the member is able to engage in gainful employment and, if so, the member may still be retired and the disability retirement allowance as a result thereof shall be reduced as in subsection (e) below. Provided further, that the Medical Board shall not certify any member as disabled who:

- (1) Applies for disability retirement based upon a mental or physical incapacity which existed when the member first established membership in the system; or
- (2) Is in receipt of any payments on account of the same disability which existed when the member first established membership in the system.

The Board of Trustees shall require each employee upon enrolling in the retirement system to provide information on the membership application concerning any mental or physical incapacities existing at the time the member enrolls.

Notwithstanding the requirement of five or more years of creditable service to the contrary, a member who is a law enforcement ~~officer~~ officer, an eligible fireman as defined in G.S. 58-86-25, or an eligible rescue squad worker as defined in G.S. 58-86-30 and becomes incapacitated for duty as the natural and proximate result of injuries incurred while in the actual performance of his or her duties, and meets all other requirements for disability retirement benefits, may be retired by the Board of Trustees on a disability retirement allowance.

~~Notwithstanding the requirement of five or more years of creditable service to the contrary, a member who is a fireman as defined in G.S. 58-86-25 or rescue squad worker as defined in G.S. 58-86-30 and who has had one year or more of creditable service and becomes incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty, and meets all other requirements for disability retirement benefits, may be retired by the Board of Trustees on a disability retirement allowance.~~

Notwithstanding the foregoing to the contrary, any beneficiary who commenced retirement with an early or service retirement benefit has the right, within three years of his retirement, to convert to an allowance with disability retirement benefits without modification of any election of optional allowance previously made; provided, the beneficiary would have met all applicable requirements for disability retirement benefits while still in service as a member. The allowance on account of disability retirement benefits to the beneficiary shall be retroactive to the effective date of early or service retirement.

Notwithstanding the foregoing, effective April 1, 1991, the surviving designated beneficiary of a deceased member who met all other requirements for disability retirement benefits, except whose death occurred before the first day of the calendar month in which the member's disability retirement allowance was to be due and payable, may elect to receive the reduced retirement allowance provided by a one hundred percent (100%) joint and survivor payment option in lieu of a return of accumulated contributions, provided the following conditions apply:

- (1) At the time of the member's death, one and only one beneficiary is eligible to receive a return of accumulated contributions, and
- (2) The member had not instructed the Board of Trustees in writing that he did not wish the provision of this subsection to apply."

SECTION 2. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:38 p.m. on the 26th day of June, 2012.

Session Law 2012-83

S.B. 881

AN ACT TO MAKE TECHNICAL AND OTHER CHANGES TO THE GENERAL STATUTES REGARDING THE DEPARTMENT OF PUBLIC SAFETY; AND TO TRANSFER THE WAREHOUSE FORMERLY OPERATED BY THE LAW ENFORCEMENT SUPPORT SERVICES DIVISION AND ITS CONTENTS FROM THE DEPARTMENT OF JUSTICE TO THE DEPARTMENT OF PUBLIC SAFETY AND TO ASSIGN THE RESPONSIBILITIES FOR THE STORAGE AND MANAGEMENT OF EVIDENCE HOUSED IN THE WAREHOUSE TO THE DEPARTMENT OF PUBLIC

SAFETY, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

PART I. SUBSTANTIVE CHANGES

SECTION 1. G.S. 14-202(m) reads as rewritten:

"(m) The provisions of subsections (a), (a1), (c), (e), (g), (h), and (k) of this section do not apply to:

- (1) Law enforcement officers while discharging or attempting to discharge their official duties; or
- (2) Personnel of the Division of Adult Correction of the Department of Public ~~Safety~~ Safety, the Division of Juvenile Justice of the Department of Public Safety, or of a local confinement facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Division or the local confinement facility."

SECTION 2. G.S. 15-203 reads as rewritten:

"§ 15-203. Duties of the Secretary of Public Safety; appointment of probation officers; reports; requests for extradition.

The Secretary of Public ~~Safety~~ Safety, or the Secretary's designee, shall direct the work of the probation officers appointed under this Article. Notwithstanding any other provision of law, the Secretary of Public Safety shall have sole discretion to establish the minimum experience requirements to receive an appointment as a probation officer. The Office of State Personnel shall work with the Secretary to establish position classifications for probation officers based on the experience requirements established by the Secretary. The ~~Secretary~~ Secretary, or the Secretary's designee, shall consult and cooperate with the courts and institutions in the development of methods and procedure in the administration of probation, and shall arrange conferences of probation officers and judges. The Secretary shall make an annual written report with statistical and other information to ~~the Division of Adult Correction of the Department of Public Safety~~ and the Governor. The Secretary is authorized to present to the Governor written applications for requisitions for the return of probationers who have broken the terms of their probation, and are believed to be in another state, and the Secretary shall follow the procedure outlined for requests for extradition as set forth in G.S. 15A-743."

SECTION 3. G.S. 18B-500 is amended by adding a new subsection to read:

"(g) Shifting of Personnel From One District to Another. – The Director of the Alcohol Law Enforcement Section, under rules adopted by the Department of Public Safety may, from time to time, shift the forces from one district to another or consolidate more than one district force at any point for special purposes. Whenever an agent of the Alcohol Law Enforcement Section is transferred from one district to another for the convenience of the State or for reasons other than the request of the agent, the Department shall be responsible for transporting the household goods, furniture, and personal apparel of the agent and members of the agent's household."

SECTION 4. G.S. 20-79.5(a) reads as rewritten:

"(a) Plates. – The State government officials listed in this section are eligible for a special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the following table for the position held by the official.

Position	Number on Plate
Governor	1
Lieutenant Governor	2
Speaker of the House of Representatives	3
President Pro Tempore of the Senate	4
Secretary of State	5
State Auditor	6

State Treasurer	7
Superintendent of Public Instruction	8
Attorney General	9
Commissioner of Agriculture	10
Commissioner of Labor	11
Commissioner of Insurance	12
Speaker Pro Tempore of the House	13
Legislative Services Officer	14
Secretary of Administration	15
Secretary of Environment and Natural Resources	16
Secretary of Revenue	17
Secretary of Health and Human Services	18
Secretary of Commerce	19
Secretary of Public Safety	20
Secretary of Cultural Resources	21
Secretary of Public Safety	22
Secretary of Public Safety	23
Governor's Staff	24-29
State Budget Officer	30
State Personnel Director	31
Chair of the State Board of Education	32
President of the U.N.C. System	33
President of the Community Colleges System	34
State Board Member, Commission Member, or State Employee Not Named in List	35-43
Alcoholic Beverage Control Commission	44-46
Assistant Commissioners of Agriculture	47-48
Deputy Secretary of State	49
Deputy State Treasurer	50
Assistant State Treasurer	51
Deputy Commissioner for the Department of Labor	52
Chief Deputy for the Department of Insurance	53
Assistant Commissioner of Insurance	54
Deputies and Assistant to the Attorney General	55-65
Board of Economic Development Nonlegislative Member	66-88
State Ports Authority Nonlegislative Member	89-96
Utilities Commission Member	97-103
State Board Member, Commission Member, or State Employee Not Named in List	104
Post-Release Supervision and Parole Commission Member	105-107
State Board Member, Commission Member, or State Employee Not Named in List	108-200".

SECTION 5. G.S. 114-19.6(a)(1) reads as rewritten:

"(1) "Covered person" means any of the following:

- a. An applicant for employment or a current employee in a position in the Division of Juvenile Justice of the Department of Public Safety who provides direct care for a client, patient, student, resident or ward of the Division.
- b. A person who supervises positions in the Division of Juvenile Justice of the Department of Public Safety providing direct care for a client, patient, student, resident or ward of the Division.

- c. An applicant for employment or a current employee in a position in the Department of Health and Human Services.
- d. An independent contractor or an employee of an independent contractor that has contracted to provide services to the Department of Health and Human Services.
- e. A person who has been approved to perform volunteer services for the Department of Health and Human Services.
- f. An independent contractor or an employee of an independent contractor who has contracted with the Division of Juvenile Justice of the Department of Public Safety to provide direct care for a client, patient, student, resident, or ward of the Division.
- g. A person who has been approved to perform volunteer services in or for the Division of Juvenile Justice of the Department of Public Safety to provide direct care for a client, patient, student, resident, or ward of the Division."

SECTION 6. G.S. 120C-500 is amended by adding a new subsection to read:

"(e) Notwithstanding subsection (c) of this section, the Secretary of Public Safety shall designate at least one, but no more than five, liaison personnel to lobby for legislative action for all offices, commissions, and agencies within the Department of Public Safety, as established by Article 13 of Chapter 143B."

SECTION 7. G.S. 126-5(d)(1) reads as rewritten:

- "(1) Exempt Positions in Cabinet Department. – The Governor may designate a total of 100 exempt policymaking positions throughout the following departments:
- a. Department of ~~Administration~~; Administration.
 - b. Department of ~~Commeree~~; Commerce.
 - e. ~~Division of Adult Correction of the Department of Public Safety;~~
 - d. Department of ~~Public Safety~~; Safety.
 - e. Department of Cultural ~~Resources~~; Resources.
 - f. Department of Health and Human ~~Services~~; Services.
 - g. Department of Environment and Natural ~~Resources~~; Resources.
 - h. Department of ~~Revenue~~; Revenue.
 - i. Department of ~~Transportation~~; and Transportation.
 - j. ~~Division of Juvenile Justice of the Department of Public Safety.~~

The Governor may designate exempt managerial positions in a number up to one percent (1%) of the total number of full-time positions in each cabinet department listed above in this sub-subdivision, not to exceed 30 positions in each department. Notwithstanding the provisions of this subdivision or the other requirements of this subsection, the Governor may at any time designate up to one percent (1%) of the total number of full-time positions in the Department of Public Safety, not to exceed 100 positions, as exempt managerial positions. Notwithstanding the provisions of this subdivision, or the other requirements of this subsection, the Governor may at any time increase by five the number of exempt policymaking positions at the Department of Health and Human Services, but at no time shall the total number of exempt policymaking positions exceed 105. Notwithstanding the provisions of this subdivision, or the other requirements of this subsection, the Governor may at any time increase by five the number of exempt policy-making positions at the Department of Public Safety, but at no time shall the total number of exempt policy-making positions exceed 105. The Governor shall notify the General Assembly and the State Personnel Director of the additional positions designated hereunder."

SECTION 8. G.S. 143B-600(a) reads as rewritten:

"(a) There is established the Department of Public Safety. The head of the Department of Public Safety is the Secretary of Public Safety, who shall be known as the Secretary. The Department shall consist of six divisions and an Office of External Affairs as follows:

- (1) The Division of Adult Correction, which shall consist of the former Department of Correction. The head of the Division of Adult Correction shall be a chief deputy secretary, who shall be responsible for prisons, community corrections, ~~and correction enterprises, enterprises, alcoholism and chemical dependency treatment, offender records management, and extradition.~~
- (2) The Division of Juvenile Justice, which shall consist of the former Department of Juvenile Justice and Delinquency Prevention. The head of the Division of Juvenile Justice shall be a chief deputy secretary, who shall be responsible for youth detention centers, court services, community programs, and youth development centers.
- (3) The Division of Law Enforcement, which shall consist of the following former divisions of the Department of Crime Control and Public Safety: the State Highway Patrol, the Alcohol Law Enforcement Division, and the State Capitol Police Division. The head of the Division of Law Enforcement shall be a chief deputy secretary.
- (4) The Division of Emergency Management, which shall consist of the former Division of Emergency Management of the Department of Crime Control and Public Safety and the Civil Air Patrol.
- (5) The North Carolina National Guard.
- (6) The Division of Administration, the head of which shall be a chief deputy secretary responsible for all administrative functions, including fiscal, auditing, information technology, purchasing, human resources, training, engineering, and facility management functions for the Department. Within the Division, there is established a Grants Management Section, which shall consist of the Governor's Crime ~~Commission, the Criminal Justice Partnership Program, Commission~~ and the Juvenile Crime Prevention Council Fund.
- (7) The Office of External Affairs, which shall be responsible for federal and State liaison activities, victim services, and public affairs."

SECTION 9. G.S. 143B-704 reads as rewritten:**"§ 143B-704. Division of Adult Correction of the Department of Public Safety – functions.**

(a) The functions of the Division of Adult Correction of the Department of Public Safety shall ~~comprise~~ comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North ~~Carolina~~ Carolina, all functions of the executive branch of the State in relation to corrections and the rehabilitation of adult offenders, including detention, parole, and aftercare supervision, and further including those prescribed powers, duties, and functions enumerated in Article 14 of Chapter 143A of the General Statutes and other laws of this State.

(b) All such functions, powers, duties, and obligations heretofore vested in the Department of Social Rehabilitation and Control and any agency enumerated in Article 14 of Chapter 143A of the General Statutes and laws of this State are hereby transferred to and vested in the Division of Adult Correction of the Department of Public Safety except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:

- (1) The State Department of Correction and Commission of Correction,
- (2) Repealed by Session Laws 1999-423, s. 8, effective July 1, 1999.
- (3) The State Probation Commission,

- (4) The State Board of Paroles,
- (5) The Interstate Agreement on Detainers, and
- (6) The Uniform Act for Out-of-State Parolee Supervision.

(e) ~~The Section of Community Corrections of the Division of Adult Correction shall establish rules for intensive supervision consistent with the requirements specified in G.S. 15A-1340.11(5).~~

(d) ~~The Department shall establish a Substance Abuse Program. This Program shall include an intensive term of inpatient treatment, normally four to six weeks, for alcohol or drug addiction in independent, residential facilities for approximately 100 offenders per facility.~~

The Division shall establish an alcoholism and chemical dependency treatment program. The program shall consist of a continuum of treatment and intervention services for male and female inmates, established in medium and minimum custody prison facilities, and for male and female probationers and parolees, established in community-based residential treatment facilities.

(e) The Department, in consultation with the Domestic Violence Commission, and in accordance with established best practices, shall establish a domestic violence treatment program for offenders sentenced to a term of imprisonment in the custody of the Department and whose official record includes a finding by the court that the offender committed acts of domestic violence.

The Department shall ensure that inmates, whose record includes a finding by the court that the offender committed acts of domestic violence, complete a domestic violence treatment program prior to the completion of the period of incarceration, unless other requirements, deemed critical by the Department, prevent program completion. In the event an inmate does not complete the program during the period of incarceration, the Department shall document, in the inmate's official record, specific reasons why that particular inmate did not or was not able to complete the program."

SECTION 10. G.S. 143B-705 reads as rewritten:

"§ 143B-705. ~~Division of Adult Correction of the Department of Public Safety – Substance Abuse Program.~~Alcoholism and Chemical Dependency Treatment Program.

(a) ~~The Substance Abuse Program established by subsection (d) of §G.S. 143B-704 shall be offered in a correctional facility, facilities, or a portion of a correctional facility facilities that is are self-contained, so that the residential and program space is separate from any other programs or inmate housing, and shall be operational by January 1, 1988, at such unit those facilities as the Secretary or the Secretary's designee may designate.~~

(b) ~~An Assistant Secretary for Substance Abuse~~A Section Chief for the Alcoholism and Chemical Dependency Treatment Program shall be employed and shall report directly to ~~the Office of the Secretary of Public Safety~~a deputy director for the Division of Adult Correction as designated by the Chief Deputy Secretary for the Division of Adult Correction. The duties of the ~~Assistant Secretary~~Section Chief and staff shall include the following:

- (1) Administer and coordinate all substance abuse programs, grants, contracts, and related functions in the Division of Adult Correction of the Department of Public ~~Safety~~Safety.
- (2) Develop and maintain working relationships and agreements with agencies and organizations that will assist in developing and operating a ~~Substance Abuse Program~~alcoholism and chemical dependency treatment and recovery programs in the Division of Adult Correction of the Department of Public ~~Safety~~Safety.
- (3) Develop and coordinate the use of volunteers in the Substance Abuse ~~Program~~Program.
- (4) Develop and present training programs related to ~~substance abuse~~alcoholism and chemical dependency for employees and others at all levels in the ~~agency~~agency.

- (5) Develop programs that provide effective treatment for inmates, probationers, and parolees with ~~substance abuse problems;~~alcohol and chemical dependency problems.
- (6) Maintain contact with key leaders in the ~~substance abuse field~~alcoholism and chemical dependency field, the service structure of various community recovery programs, and active supporters of the Correction ~~Program;~~Program.
- (7) Supervise directly the ~~directors of treatment units,~~ facility and district program managers, other specialized personnel, and programs that exist or may be developed in the Division of Adult Correction of the Department of Public ~~Safety;~~ and Safety.
- (8) ~~Develop employee assistance programs for employees with substance abuse problems.~~

(c) ~~In the unit~~each prison that houses an alcoholism and chemical dependency program, there shall be a unit superintendent under the Section of Prisons of the Division of Adult Correction and other custodial, administrative, and support staff as required ~~for a medium custody facility for approximately 100 inmates to maintain the proper custody level at the facility.~~ The unit superintendent shall be responsible for all matters pertaining to custody and administration of the unit. ~~The Assistant Secretary shall designate an employee to administer the inpatient treatment program under the direction of the Assistant Secretary for Substance Abuse.~~The Section Chief of the Alcoholism and Chemical Dependency Treatment Program shall designate and direct employees to manage treatment programs at each location. Duties of unit treatment program managers shall include program development and implementation, supervision of personnel assigned to treatment programs, adherence to all pertinent policy and procedural requirements of the Department, and other duties as assigned.

(d) Extensive use may be made of inmates working in the role of ancillary staff, ~~peer counselors,~~treatment assistants, role models, or study group leaders as the program manager determines. Additional resource people who may be required for specialized treatment activities, presentations, or group work may be employed on a fee or contractual basis.

(e) Admission priorities shall be established as follows:

- (1) Evaluation and referral from reception and diagnostic centers.
- (2) General staff referral.
- (3) Self-referral.

(f) The Program shall include extensive follow-up after the period of intensive treatment. There will be specific plans for each departing inmate for follow-up, including active involvement with Alcoholics Anonymous, community resources, and personal sponsorship."

SECTION 11. G.S. 143B-710 reads as rewritten:

"§ 143B-710. **Division of Adult Correction of the Department of Public Safety – head.**

The Secretary of Public Safety shall appoint a chief deputy secretary to be the head of the Division."

SECTION 12. G.S. 143B-806 reads as rewritten:

"§ 143B-806. **Duties and powers of the Division of Juvenile Justice of the Department of Public Safety.**

(a) The head of the Division is ~~the Secretary,~~ a Chief Deputy Secretary appointed by the Secretary of Public Safety. The ~~Secretary~~ Chief Deputy Secretary shall have the powers and duties conferred by this Chapter, delegated by the Secretary of Public Safety or the Governor, and conferred by the Constitution and laws of this State. The Secretary of Public Safety shall be responsible for effectively and efficiently organizing the Division to promote the policy of the State as set forth in this Part and to promote public safety and to prevent the commission of delinquent acts by juveniles.

(b) The ~~Secretary~~ Chief Deputy Secretary shall have the following powers and duties:

- (1) Give leadership to the implementation as appropriate of State policy that requires that youth development centers be phased out as populations diminish.
- (2) Close a State youth development center when its operation is no longer justified and transfer State funds appropriated for the operation of that youth development center to fund community-based programs, to purchase care or services for predelinquents, delinquents, or status offenders in community-based or other appropriate programs, or to improve the efficiency of existing youth development centers, after consultation with the Joint Legislative Commission on Governmental Operations.
- (3) Administer a sound admission or intake program for juvenile facilities, including the requirement of a careful evaluation of the needs of each juvenile prior to acceptance and placement.
- (4) Operate juvenile facilities and implement programs that meet the needs of juveniles receiving services and that assist them to become productive, responsible citizens.
- (5) Adopt rules to implement this Part and the responsibilities of the Secretary and the Division under Chapter 7B of the General Statutes. The Secretary may adopt rules applicable to local human services agencies providing juvenile court and delinquency prevention services for the purpose of program evaluation, fiscal audits, and collection of third-party payments.
- (6) Ensure a statewide and uniform system of juvenile intake, protective supervision, probation, and post-release supervision services in all district court districts of the State. The system shall provide appropriate, adequate, and uniform services to all juveniles who are alleged or found to be undisciplined or delinquent.
- (7) Establish procedures for substance abuse testing for juveniles adjudicated delinquent for substance abuse offenses.
- (8) Plan, develop, and coordinate comprehensive multidisciplinary services and programs statewide for the prevention of juvenile delinquency, early intervention, and rehabilitation of juveniles.
- (9) Develop standards, approve yearly program evaluations, and make recommendations based on the evaluations to the General Assembly concerning continuation funding.
- (10) Collect expense data for every program operated and contracted by the Division.
- (11) Develop a formula for funding, on a matching basis, juvenile court and delinquency prevention services as provided for in this Part. This formula shall be based upon the county's or counties' relative ability to fund community-based programs for juveniles.

Local governments receiving State matching funds for programs under this Part must maintain the same overall level of effort that existed at the time of the filing of the county assessment of juvenile needs with the Division.
- (12) Assist local governments and private service agencies in the development of juvenile court services and delinquency prevention services and provide information on the availability of potential funding sources and assistance in making application for needed funding.
- (13) Develop and administer a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and allowing reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles.

- (14) Coordinate State-level services in relation to delinquency prevention and juvenile court services so that any citizen may go to one place in State government to receive information about available juvenile services.
- (15) Appoint the chief court counselor in each district ~~upon the recommendation of the chief district court judge of that district.~~
- (16) Develop a statewide plan for training and professional development of chief court counselors, court counselors, and other personnel responsible for the care, supervision, and treatment of juveniles. The plan shall include attendance at appropriate professional meetings and opportunities for educational leave for academic study.
- (17) Study issues related to qualifications, salary ranges, appointment of personnel on a merit basis, including chief court counselors, court counselors, secretaries, and other appropriate personnel, at the State and district levels in order to adopt appropriate policies and procedures governing personnel.
- (18) Set, in consultation with the Office of State Personnel, the salary supplement paid to teachers, instructional support personnel, and school-based administrators who are employed at juvenile facilities and are licensed by the State Board of Education. The salary supplement shall be at least five percent (5%), but not more than the percentage supplement they would receive if they were employed in the local school administrative unit where the job site is located. These salary supplements shall not be paid to central office staff. Nothing in this subdivision shall be construed to include "merit pay" under the term "salary supplement".
- (19) Designate persons, as necessary, as State juvenile justice officers, to provide for the care and supervision of juveniles placed in the physical custody of the Division.

(c) Except as otherwise specifically provided in this Part and in Article 1 of this Chapter, the Secretary of Public Safety shall prescribe the functions, powers, duties, and obligations of every agency or ~~division~~ section in the Division.

(d) Where Division statistics indicate the presence of minority youth in juvenile facilities disproportionate to their presence in the general population, the Division shall develop and recommend appropriate strategies designed to ensure fair and equal treatment in the juvenile justice system.

(e) The Division may provide consulting services and technical assistance to courts, law enforcement agencies, and other agencies, local governments, and public and private organizations. The Division may develop or assist Juvenile Crime Prevention Councils in developing community needs, assessments, and programs relating to the prevention and treatment of delinquent and undisciplined behavior.

(f) The Division shall develop a cost-benefit model for each State-funded program. Program commitment and recidivism rates shall be components of the model."

SECTION 13. G.S. 143B-840(a) reads as rewritten:

"(a) The Division shall develop and implement ~~the~~ a comprehensive juvenile delinquency and substance abuse prevention plan ~~developed by the Office of Juvenile Justice~~ and shall coordinate with County Councils for implementation of a continuum of services and programs at the community level.

The Division shall ensure that localities are informed about best practices in juvenile delinquency and substance abuse prevention."

SECTION 14. Section 19.1(hhh2) of S.L. 2011-145 is repealed.

PART II. TECHNICAL CHANGES

SECTION 15. G.S. 7A-474.3(c)(4) reads as rewritten:

"(4) To provide legal assistance to any prisoner within the ~~North Carolina~~ Division of Adult Correction of the Department of Public Safety with regard to the terms of that person's incarceration; or".

SECTION 16. G.S. 7A-474.18(c)(2) reads as rewritten:

"(2) To provide legal assistance to any prisoner within the ~~North Carolina~~ Division of Adult Correction of the Department of Public Safety with regard to the terms of that person's incarceration."

SECTION 17. G.S. 7B-3000(e1) reads as rewritten:

"(e1) When a person is subject to probation supervision under Article 82 of Chapter 15A of the General Statutes, for an offense that was committed while the person was less than 25 years of age, that person's juvenile record of an adjudication of delinquency for an offense that would be a felony if committed by an adult may be examined without a court order by the probation officer in the Section of Community Corrections of the Division of Adult Correction assigned to supervise the person for the purpose of assessing risk related to supervision.

Each judicial district manager in the Section of Community Corrections of the Division of Adult Correction shall designate a ~~Division~~-staff person in each county to obtain from the clerk, at the request of the probation officer assigned to supervise the person, any juvenile records authorized to be examined under this subsection. The judicial district manager shall inform the clerk in each county, in writing, of the designated staff person in the county. The designated staff person shall transfer any juvenile records obtained to the probation officer assigned to supervise the person.

Any copies of juvenile records obtained pursuant to this subsection shall continue to be withheld from public inspection and shall not become part of the public record in any criminal proceeding. Any copies of juvenile records shall be destroyed within 30 days of termination of the person's period of probation supervision. Any other information in the Section of Community Corrections of the Division of Adult Correction records, relating to a person's juvenile record, shall remain confidential and shall be maintained or destroyed pursuant to guidelines established by the Department of Cultural Resources for the maintenance and destruction of Section of Community Corrections of the Division of Adult Correction records."

SECTION 18. G.S. 13-1(1) reads as rewritten:

"§ 13-1. **Restoration of citizenship.**

Any person convicted of a crime, whereby the rights of citizenship are forfeited, shall have such rights automatically restored upon the occurrence of any one of the following conditions:

- (1) The unconditional discharge of an ~~inmate by the State Division of Adult Correction of the Department of Public Safety or the North Carolina Division of Adult Correction of the Department of Public Safety, of a probationer by the State Division of Adult Correction of the Department of Public Safety, inmate, of a probationer,~~ or of a parolee by the Division of Adult Correction of the Department of Public Safety; or of a defendant under a suspended sentence by the court.

...."

SECTION 19. G.S. 14-258.3 reads as rewritten:

"§ 14-258.3. **Taking of hostage, etc., by prisoner.**

Any prisoner in the custody of the Division of Adult Correction of the Department of Public Safety, including persons in the custody of the Division of Adult Correction of the Department of Public Safety pending trial or appellate review or for presentence diagnostic evaluation, or any prisoner in the custody of any local confinement facility (as defined in G.S. 153A-217), or any person in the custody of any local confinement facility (as defined in G.S. 153A-217) pending trial or appellate review or for any lawful purpose, who by threats, coercion, intimidation or physical force takes, holds, or carries away any person, as hostage or otherwise, shall be punished as a Class F felon. The provisions of this section apply to: (i)

violations committed by any prisoner in the custody of the Division of Adult Correction of the Department of Public Safety, whether inside or outside of the facilities of the ~~North Carolina~~ Division of Adult Correction of the Department of Public Safety; (ii) violations committed by any prisoner or by any other person lawfully under the custody of any local confinement facility (as defined in G.S. 153A-217), whether inside or outside the local confinement facilities (as defined in G.S. 153A-217)."

SECTION 20. G.S. 15-6.1 reads as rewritten:

"§ **15-6.1. Changing place of confinement of prisoner committing offense.**

In all cases where a defendant has been convicted in a court inferior to the superior court and sentenced to a term in the county jail or to serve in some county institution other than under the supervision of the State Division of Adult Correction of the Department of Public Safety, and such defendant is subsequently brought before such court for an offense committed prior to the expiration of the term to be served in such county institution, upon conviction, plea of guilty or nolo contendere, the judge shall have the power and authority to change the place of confinement of the prisoner and commit such defendant to work under the supervision of the ~~State~~ Division of Adult Correction of the Department of Public Safety. This provision shall apply whether or not the terms of the new sentence are to run concurrently with or consecutive to the remaining portion of the old sentence."

SECTION 21. G.S. 15-10.1 reads as rewritten:

"§ **15-10.1. Detainer; purpose; manner of use.**

Any person confined in the State prison system of North Carolina, subject to the authority and control of the ~~State~~ Division of Adult Correction of the Department of Public Safety, or any person confined in any other prison of North Carolina, may be held to account for any other charge pending against him only upon a written order from the clerk or judge of the court in which the charge originated upon a case regularly docketed, directing that such person be held to answer the charge pending in such court; and in no event shall the prison authorities hold any person to answer any charge upon a warrant or notice when the charge has not been regularly docketed in the court in which the warrant or charge has been issued: Provided, that this section shall not apply to any State agency exercising supervision over such person or prisoner by virtue of a judgment, order of court or statutory authority."

SECTION 22. G.S. 15-196.3 reads as rewritten:

"§ **15-196.3. Effect of credit.**

Time creditable under this section shall reduce the minimum and maximum term of a sentence; and, irrespective of sentence, shall reduce the time required to attain privileges made available to inmates in the custody of the ~~State~~ Division of Adult Correction of the Department of Public Safety which are dependent, in whole or in part, upon the passage of a specific length of time in custody, including parole or post-release supervision consideration by the Post-Release Supervision and Parole Commission. However, nothing in this section shall be construed as requiring an automatic award of privileges by virtue of the passage of time."

SECTION 23. G.S. 15-204 reads as rewritten:

"§ **15-204. Assignment, compensation and oath of probation officers.**

Probation officers appointed under this Article shall be assigned to serve in such courts or districts or otherwise as the Secretary of Public Safety may determine. They shall be paid annual salaries to be fixed by ~~the Division of Adult Correction of the~~ Department of Public Safety, and shall also be paid traveling and other necessary expenses incurred in the performance of their official duties as probation officers when such expense accounts have been authorized and approved by the Secretary of Public Safety.

Each person appointed as a probation officer shall take an oath of office before the judge of the court or courts in which he is to serve, which oath shall be as follows:

"I, _____, do solemnly and sincerely swear that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain, and defend the Constitution of said State, not inconsistent with the Constitution of the

United States, to the best of my knowledge and ability; so help me God," and shall be noted of record by the clerk of the court."

SECTION 24. G.S. 15-206 reads as rewritten:

"§ 15-206. Cooperation with Division of Adult Correction of the Department of Public Safety and officials of local units.

~~It shall be the duty of the Secretary of Public Safety and the Division of Adult Correction of the Department of Public Safety to cooperate with each other to the end that the purposes of probation and parole may be more effectively carried out. When requested, each shall make available to the other case records in his possession, and in cases of emergency, where time and expense can be saved, shall provide investigation service.~~

It is hereby made the duty of every city, county, or State official or department to render all assistance and cooperation within ~~his or its~~ the official's or the Department's fundamental power which may further the objects of this Article. The ~~State~~ Division of Adult Correction of the Department of Public Safety, the Secretary of Public Safety, and the probation officers are authorized to seek the cooperation of such officials and departments, and especially of the county superintendents of social services and of the Department of Health and Human Services."

SECTION 25. G.S. 15A-544.3(b)(9) reads as rewritten:

"(9) The following notice: "TO THE DEFENDANT AND EACH SURETY NAMED ABOVE: The defendant named above has failed to appear as required before the court in the case identified above. A forfeiture for the amount of the bail bond shown above was entered in favor of the State against the defendant and each surety named above on the date of forfeiture shown above. This forfeiture will be set aside if, on or before the final judgment date shown above, satisfactory evidence is presented to the court that one of the following events has occurred: (i) the defendant's failure to appear has been stricken by the court in which the defendant was required to appear and any order for arrest that was issued for that failure to appear is recalled, (ii) all charges for which the defendant was bonded to appear have been finally disposed by the court other than by the State's taking a voluntary dismissal with leave, (iii) the defendant has been surrendered by a surety or bail agent to a sheriff of this State as provided by law, (iv) the defendant has been served with an Order for Arrest for the Failure to Appear on the criminal charge in the case in question as evidenced by a copy of an official court record, including an electronic record, (v) the defendant died before or within the period between the forfeiture and the final judgment as demonstrated by the presentation of a death certificate, (vi) the defendant was incarcerated in a unit of the ~~North Carolina~~ Division of Adult Correction of the Department of Public Safety and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to appear as evidenced by a copy of an official court record or a copy of a document from the Division of Adult Correction of the Department of Public Safety or Federal Bureau of Prisons, or (vii) the defendant was incarcerated in a local, state, or federal detention center, jail, or prison located anywhere within the borders of the United States at the time of the failure to appear, and the district attorney for the county in which the charges are pending was notified of the defendant's incarceration while the defendant was still incarcerated and the defendant remains incarcerated for a period of 10 days following the district attorney's receipt of notice, as evidenced by a copy of the written notice served on the district attorney via hand delivery or certified mail and written documentation of date upon which the defendant was released from incarceration, if the defendant was released prior to the time the motion to set aside was filed. The forfeiture

will not be set aside for any other reason. If this forfeiture is not set aside on or before the final judgment date shown above, and if no motion to set it aside is pending on that date, the forfeiture will become a final judgment on that date. The final judgment will be enforceable by execution against the defendant and any accommodation bondsman and professional bondsman on the bond. The final judgment will also be reported to the Department of Insurance. Further, no surety will be allowed to execute any bail bond in the above county until the final judgment is satisfied in full."

SECTION 26. G.S. 15A-544.5(b)(6) reads as rewritten:

"(6) The defendant was incarcerated in a unit of the ~~North Carolina~~ Division of Adult Correction of the Department of Public Safety and is serving a sentence or in a unit of the Federal Bureau of Prisons located within the borders of the State at the time of the failure to appear as evidenced by a copy of an official court record or a copy of a document from the Division of Adult Correction of the Department of Public Safety or Federal Bureau of Prisons, including an electronic record."

SECTION 27. G.S. 15A-821(a) reads as rewritten:

"(a) If a judge of a court of general jurisdiction in any other state, which by its laws has made provision for commanding a prisoner within that state to attend and testify in this State, certifies under the seal of that court that there is a criminal prosecution pending in the court or that a grand jury investigation has commenced, and that a person confined in an institution under the control of the ~~State~~ Division of Adult Correction of the Department of Public Safety of North Carolina, other than a person confined as criminally insane, is a material witness in the prosecution or investigation and that his presence is required for a specified number of days, upon presentment of the certificate to a superior court judge in the superior court district or set of districts as defined in G.S. 7A-41.1 where the person is confined, upon notice to the Attorney General, the judge must fix a time and place for a hearing and order the person having custody of the prisoner to produce him at the hearing."

SECTION 28. G.S. 15A-1344(c) reads as rewritten:

"(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~~ Division of Adult Correction of the Department of Public Safety."

SECTION 29. G.S. 17C-3(a) reads as rewritten:

"(a) There is established the North Carolina Criminal Justice Education and Training Standards Commission, hereinafter called "the Commission." The Commission shall be composed of ~~33~~31 members as follows:

(1) Police Chiefs. — Three police chiefs selected by the North Carolina Association of Chiefs of Police and one police chief appointed by the Governor.

- (2) Police Officers. – Three police officials appointed by the North Carolina Police Executives Association and two criminal justice officers certified by the Commission as selected by the North Carolina Law-Enforcement Officers' Association.
- (3) Departments. – The Attorney General of the State of North Carolina; the Secretary of Public Safety; the President of the North Carolina Community Colleges System.
- (3a) Repealed by Session Laws 2001-490, s. 1.2, effective June 30, 2001.
- (4) At-large Groups. – One individual representing and appointed by each of the following organizations: one mayor selected by the League of Municipalities; one law-enforcement training officer selected by the North Carolina Law-Enforcement Training Officers' Association; one criminal justice professional selected by the North Carolina Criminal Justice Association; one sworn law-enforcement officer selected by the North State Law-Enforcement Officers' Association; one member selected by the North Carolina Law-Enforcement Women's Association; and one District Attorney selected by the North Carolina Association of District Attorneys.
- (5) Citizens and Others. – The President of The University of North Carolina; the Dean of the School of Government at the University of North Carolina at Chapel Hill; and two citizens, one of whom shall be selected by the Governor and one of whom shall be selected by the Attorney General. The General Assembly shall appoint four persons, two upon the recommendation of the Speaker of the House of Representatives and two upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the General Assembly shall be for two-year terms to conclude on June 30th in odd-numbered years.
- (6) Correctional Officers. – Four correctional officers in management positions employed by the Division of Adult Correction of the Department of Public Safety shall be appointed, two from the Section of Community Corrections of the Division of Adult Correction upon the recommendation of the Speaker of the House of Representatives and two from the Section of Prisons of the Division of Adult Correction upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the General Assembly shall serve two-year terms to conclude on June 30th in odd-numbered years. The Governor shall appoint one correctional officer employed by the Division of Adult Correction of the Department of Public Safety and assigned to the Office of Staff Development and Training. The Governor's appointment shall serve a three-year term."

SECTION 30. G.S. 20-189 reads as rewritten:

"§ 20-189. Patrolmen assigned to Governor's office.

The Secretary of Public Safety, at the request of the Governor, shall assign and attach two members of the State Highway Patrol to the office of the Governor, there to be assigned such duties and perform such services as the Governor may direct. The salary of the State ~~highway patrolmen~~ Highway Patrol members so assigned to the office of the Governor shall be paid from appropriations made to the office of the Governor and shall be fixed in an amount to be determined by the Governor."

SECTION 31. G.S. 20-192 reads as rewritten:

"§ 20-192. Shifting of ~~patrolmen~~ personnel from one district to another.

The commanding officer of the State Highway Patrol under such rules and regulations as the Department of Public Safety may prescribe shall have authority from time to time to shift the forces from one district to another, or to consolidate more than one district force at any

point for special purposes. Whenever a member of the State Highway Patrol is transferred from one point to another for the convenience of the State or otherwise than upon the request of the ~~patrolman, Highway Patrol member,~~ the Department shall be responsible for transporting the household goods, furniture and personal apparel of the ~~patrolman Highway Patrol member~~ and members of ~~his~~ the Highway Patrol member's household."

SECTION 32. G.S. 65-4 reads as rewritten:

"§ 65-4. **State Division of Adult Correction of the Department of Public Safety to furnish labor.**

The ~~State~~ Division of Adult Correction of the Department of Public Safety is hereby authorized and directed to furnish at such time, or times, as may be convenient, such prisoner's labor as may be available, to properly care for the Confederate Cemetery situated in the City of Raleigh, such services to be rendered by the State's prisoners without compensation."

SECTION 33. G.S. 66-58(b)(15) reads as rewritten:

"(15) The ~~State~~ Division of Adult Correction of the Department of Public Safety is authorized to purchase and install automobile license tag plant equipment for the purpose of manufacturing license tags for the State and local governments and for such other purposes as the Division may direct.

The Commissioner of Motor Vehicles, or such other authority as may exercise the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the ~~State~~ Division of Adult Correction of the Department of Public Safety for the State automobile license tag requirements from year to year.

The price to be paid to the ~~State~~ Division of Adult Correction of the Department of Public Safety for the tags shall be fixed and agreed upon by the Governor, the State Division of Adult Correction of the Department of Public Safety, and the Motor Vehicle Commissioner, or such authority as may be authorized to purchase the supplies."

SECTION 34. G.S. 97-13(c) reads as rewritten:

"(c) Prisoners. – This Article shall not apply to prisoners being worked by the State or any subdivision thereof, except to the following extent: Whenever any prisoner assigned to the ~~State~~ Division of Adult Correction of the Department of Public Safety shall suffer accidental injury or accidental death arising out of and in the course of the employment to which he had been assigned, if there be death or if the results of such injury continue until after the date of the lawful discharge of such prisoner to such an extent as to amount to a disability as defined in this Article, then such discharged prisoner or the dependents or next of kin of such discharged prisoner may have the benefit of this Article by applying to the Industrial Commission as any other employee; provided, such application is made within 12 months from the date of the discharge; and provided further that the maximum compensation to any prisoner or to the dependents or next of kin of any deceased prisoner shall not exceed thirty dollars (\$30.00) per week and the period of compensation shall relate to the date of his discharge rather than the date of the accident. If any person who has been awarded compensation under the provisions of this subsection shall be recommitted to prison upon conviction of an offense committed subsequent to the award, such compensation shall immediately cease. Any awards made under the terms of this subsection shall be paid by the ~~State Division of Adult Correction of the~~ Department of Public Safety from the funds available for the operation of the Division of Adult Correction of the Department of Public Safety. The provisions of G.S. 97-10.1 and 97-10.2 shall apply to prisoners and discharged prisoners entitled to compensation under this subsection and to the State in the same manner as said section applies to employees and employers."

SECTION 35. G.S. 105-259(b)(15) reads as rewritten:

"(15) To exchange information concerning a tax imposed by Articles 2A, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the Department or the agency:

- a. The North Carolina Alcoholic Beverage Control Commission.
- b. The Alcohol Law Enforcement Section of the Department of Public Safety.
- c. The Bureau of Alcohol, Tobacco, and Firearms of the United States ~~Treasury Department.~~Department of Justice.
- d. Law enforcement agencies.
- e. The Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety."

SECTION 36. G.S. 114-10.1(b) reads as rewritten:

"(b) The Attorney General is authorized to cooperate with the Division of Motor Vehicles, Department of Administration, ~~Division of Adult Correction~~ of the Department of Public Safety ~~Safety~~, and other State, local and federal agencies and organizations in carrying out the purpose and intent of this section, and to utilize, in cooperation with other State agencies and to the extent as may be practical, computers and related equipment as may be operated by other State agencies."

SECTION 37. G.S. 114-14 reads as rewritten:

"§ 114-14. General powers and duties of Director and assistants.

The Director of the Bureau and his assistants are given the same power of arrest as is now vested in the sheriffs of the several counties, and their jurisdiction shall be statewide. The Director of the Bureau and his assistants shall, at the request of the Governor, give assistance to sheriffs, police officers, district attorneys, and judges when called upon by them and so directed. They shall also give assistance, when requested, to ~~the office of the Division of Adult Correction~~ of the Department of Public Safety in the investigation of cases pending before the parole office and of complaints lodged against parolees, when so directed by the Governor."

SECTION 38. G.S. 115C-108.1(d) reads as rewritten:

"(d) The Departments of Health and Human Services, Correction, and Juvenile Justice and Delinquency Prevention shall submit to the Board their plans for the education of children with disabilities in their care, custody, or control. The Board may grant specific exemptions for programs administered by the Department of Health and Human Services, the Division of Juvenile Justice of the Department of Public Safety, or the Division of Adult Correction of the Department of Public Safety when compliance by them with the Board's standards would, in the Board's judgment, impose undue hardship on that department or division and when other procedural due process requirements, substantially equivalent to those required under this Article and IDEA, are assured in programs of special education and related services furnished to children with disabilities served by that department. Further, the Board shall recognize that inpatient and residential special education programs within the Departments of Health and Human Services, ~~Correction, and Juvenile Justice and Delinquency Prevention~~ the Division of Juvenile Justice of the Department of Public Safety, or the Division of Adult Correction of the Department of Public Safety may require more program resources than those necessary for optimal operation of these programs in local school administrative units."

SECTION 39. G.S. 115C-108.1(e) reads as rewritten:

"(e) The Board shall support and encourage joint and collaborative special education planning and programming at local levels to include local school administrative units and the programs and agencies of the Departments of Health and Human Services, ~~Correction, and Juvenile Justice and Delinquency Prevention~~ the Division of Juvenile Justice of the Department of Public Safety, or the Division of Adult Correction of the Department of Public Safety."

SECTION 40. G.S. 115C-325(p) reads as rewritten:

"(p) Section Applicable to Certain Institutions. – Notwithstanding any law or regulation to the contrary, this section shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human Services, Public Instruction, ~~Correction, or Juvenile Justice and Delinquency Prevention~~ the Division of Juvenile Justice of the Department of Public Safety, or the Division of Adult Correction of the Department of Public Safety, regardless of the age of the students."

SECTION 41. G.S. 115D-5(b)(2) reads as rewritten:

- "(2) Courses requested by the following entities that support the organizations' training needs and are on a specialized course list approved by the State Board of Community Colleges:
- a. Volunteer fire departments.
 - b. Municipal, county, or State fire departments.
 - c. Volunteer EMS or rescue and lifesaving departments.
 - d. Municipal, county, or State EMS or rescue and lifesaving departments.
 - e. Radio Emergency Associated Communications Teams (REACT) under contract to a county as an emergency response agency.
 - (v) (vi) municipal county, or State law-enforcement officers
 - f. Municipal, county, or State law enforcement agencies.
 - g. The Division of Adult Correction of the Department of Public Safety for the training of full-time custodial employees and employees of the Division's Section of Community Corrections ~~of the Division of Adult Correction~~ required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission.
 - h. The Division of Juvenile Justice of the Department of Public Safety for the training of employees required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission."

SECTION 42. G.S. 120-12.1 reads as rewritten:**"§ 120-12.1. Reports on vacant positions in the Judicial Department and three other departments.**

The Judicial Department, ~~the Division of Adult Correction of the Department of Public Safety~~, the Department of Justice, and the Department of Public Safety shall each report by February 1 of each year 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 all positions within that department that have remained vacant for 12 months or more. The report shall include the original position vacancy dates, the dates of any postings or repostings of the positions, and an explanation for the length of the vacancies."

SECTION 43. G.S. 122C-115.4(g)(1) reads as rewritten:

- "(1) Each LME to have at least one trained care coordination person on staff to serve as the point of contact for TRICARE, the North Carolina National Guard's Integrated Behavioral Health System, the Army Reserve Department of Psychological Health, the United States Department of Veterans Affairs, the ~~North Carolina~~ Division of Adult Correction, and related organizations to ensure that members of the active and reserve components of the Armed Forces of the United States, veterans, and their family members have access to State-funded services when they are not eligible for federally funded mental health or substance abuse services."

SECTION 44. G.S. 131E-214.1(3) reads as rewritten:

- "(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~~ Division of Adult Correction of the Department of Public Safety."

SECTION 45. G.S. 143-134(b) reads as rewritten:

"(b) Notwithstanding the provisions of subsection (a) of this section, the Department of Transportation and the Division of Adult Correction of the Department of Public Safety shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Department of Transportation or the Division of Adult Correction of the Department of Public Safety a standard clause which provides that the State Auditor and internal auditors of the Department of Transportation or ~~the Division of Adult Correction of the~~ Department of Public Safety may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. Neither the Department of Transportation nor the Division of Adult Correction of the Department of Public Safety shall award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 46. 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~~ Division of Adult Correction of the Department of Public Safety; and all full time institutional and full-time, permanent part-time, and temporary detention employees of the Division of Juvenile Justice of the Department of Public Safety 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 firemen" as defined in G.S. 58-86-25 and all full-time, permanent part-time and temporary employees of the Division of Forest Resources, Department of Agriculture and Consumer Services, 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; 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).~~ G.S. 143B-1031. 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 47. G.S. 143B-2 reads as rewritten:**"§ 143B-2. Interim applicability of the Executive Organization Act of 1973.**

The Executive Organization Act of 1973 shall be applicable only to the following named departments:

- (1) Department of Cultural ~~Resources~~Resources.
- (2) Department of Health and Human ~~Services~~Services.
- (3) Department of ~~Revenue~~Revenue.
- (4) Department of Public ~~Safety~~Safety.
- (5) ~~Division of Adult Correction of the Department of Public Safety~~
- (6) Department of Environment and Natural ~~Resources~~Resources.
- (7) Department of ~~Transportation~~Transportation.
- (8) Department of ~~Administration~~Administration.
- (9) Department of ~~Commerce~~Commerce.
- (10) ~~Division of Juvenile Justice of the Department of Public Safety."~~

SECTION 48. G.S. 143B-6 reads as rewritten:**"§ 143B-6. Principal departments.**

In addition to the principal departments enumerated in the Executive Organization Act of 1971, all executive and administrative powers, duties, and functions not including those of the General Assembly and its agencies, the General Court of Justice and the administrative agencies created pursuant to Article IV of the Constitution of North Carolina, and higher education previously vested by law in the several State agencies, are vested in the following principal departments:

- (1) Department of Cultural ~~Resources~~Resources.
- (2) Department of Health and Human ~~Services~~Services.
- (3) Department of ~~Revenue~~Revenue.
- (4) Department of Public ~~Safety~~Safety.
- (5) ~~Division of Adult Correction of the Department of Public Safety~~
- (6) Department of Environment and Natural ~~Resources~~Resources.
- (7) Department of ~~Transportation~~Transportation.
- (8) Department of ~~Administration~~Administration.
- (9) Department of ~~Commerce~~Commerce.
- (10) Community Colleges System ~~Office~~Office.
- (11) ~~Division of Juvenile Justice of the Department of Public Safety."~~

SECTION 49. G.S. 143B-417(1) reads as rewritten:

- "(1) To determine the number of student interns to be allocated to each of the following offices or departments:
- a. Office of the Governor
 - b. Department of Administration
 - e. ~~Division of Adult Correction of the Department of Public Safety~~
 - d. Department of Cultural Resources
 - e. Department of Revenue
 - f. Department of Transportation
 - g. Department of Environment and Natural Resources
 - h. Department of Commerce
 - i. Department of Public Safety
 - j. Department of Health and Human Services
 - k. Office of the Lieutenant Governor
 - l. Office of the Secretary of State
 - m. Office of the State Auditor
 - n. Office of the State Treasurer
 - o. Department of Public Instruction
 - p. Repealed by Session Laws 1985, c. 757, s. 162.
 - q. Department of Agriculture and Consumer Services

- r. Department of Labor
- s. Department of Insurance
- t. Office of the Speaker of the House of Representatives
- u. Justices of the Supreme Court and Judges of the Court of Appeals
- v. Community Colleges System Office
- w. Office of State Personnel
- x. Office of the Senate President Pro Tempore
- y. ~~Division of Juvenile Justice of the Department of Public Safety~~
- z. Administrative Office of the Courts
- aa. State Ethics Commission
- bb. Division of Employment Security
- cc. State Board of Elections
- dd. Department of Justice".

SECTION 50. G.S. 143B-426.22(a) reads as rewritten:

"(a) Creation; Membership. – The Governor's Management Council is created in the Department of Administration. The Council shall contain the following members: The Secretary of Administration, who shall serve as chairman, a senior staff officer responsible for productivity and management programs from the Departments of Commerce, Revenue, Environment and Natural Resources, Transportation, Public Safety, Cultural Resources, ~~Correction, Health and Human Services, Juvenile Justice and Delinquency Prevention,~~ and Administration; and an equivalent officer from the Offices of State Personnel, State Budget and Management, and the Governor's Program for Executive and Organizational Development. The following persons may also serve on the Council if the entity represented chooses to participate: a senior staff officer responsible for productivity and management programs from any State department not previously specified in this section, and a representative from The University of North Carolina."

SECTION 51. G.S. 143B-707 reads as rewritten:

"§ 143B-707. Reports to the General Assembly.

The Division of Adult Correction of the Department of Public Safety shall report by March 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees in Justice and Public Safety on their efforts to provide effective treatment to offenders with substance abuse problems. The report shall include:

- (1) Details of any new initiatives and expansions or reduction of ~~programs;~~programs.
- (2) Details on any treatment efforts conducted in conjunction with other ~~departments;~~departments.
- (3) Utilization of the ~~DART/DWI program;~~community-based programs at DART-Cherry and Black Mountain Substance Abuse Treatment Center for Women.
- (4), (5) Repealed by Session Laws 2007-323, s. 17.3(a), effective July 1, 2007.
- (6) Statistical information on the number of current inmates with substance abuse problems that require treatment, the number of treatment slots, the number who have completed treatment, and a comparison of available treatment slots to actual utilization rates. The report shall include this information for each DOC funded ~~program;~~ and program.
- (7) Evaluation of each substance abuse treatment program funded by the Division of Adult Correction of the Department of Public Safety. Evaluation measures shall include reduction in alcohol and drug dependency, improvements in disciplinary and infraction rates, recidivism (defined as return-to-prison rates), and other measures of the programs' success."

SECTION 52. G.S. 143B-711 reads as rewritten:

"§ 143B-711. Division of Adult Correction of the Department of Public Safety – organization.

The Division of Adult Correction of the Department of Public Safety shall be organized initially to include the Post-Release Supervision and Parole Commission, the Board of Correction, the Section of Prisons of the Division of Adult Correction, ~~the Division of Adult Probation and Parole, the Section of Community Corrections, the Section of Alcoholism and Chemical Dependency Treatment Programs,~~ and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

~~The Division shall establish a Substance Abuse Program. All substance abuse programs established or in existence shall be administered by the Division of Adult Correction of the Department of Public Safety under the Substance Abuse Program."~~

SECTION 53. G.S. 143B-715(b) reads as rewritten:

"(b) ~~The Secretary of Public Safety~~Board of Correction shall consist of one voting member from each of the 13 congressional districts, appointed by the Governor to serve at his pleasure. One member shall be a psychiatrist or a psychologist, one an attorney with experience in the criminal courts, one a judge in the General Court of Justice and nine members appointed at large. The Secretary of Public Safety shall be an additional nonvoting member and chairman ex officio. The terms of office of the nine members presently serving on the Board shall continue, but any vacancy occurring on or after July 1, 1983, shall be filled by the Governor in compliance with the requirement of membership from the various congressional districts."

SECTION 54. G.S. 143B-1100 reads as rewritten:

"§ 143B-1100. Governor's Crime Commission – creation; composition; terms; meetings, etc.

(a) There is hereby created the Governor's Crime Commission of the Department of Public Safety. The Commission shall consist of ~~38~~36 voting members and six nonvoting members. The composition of the Commission shall be as follows:

- (1) The voting members shall be:
 - a. The Governor, the Chief Justice of the Supreme Court of North Carolina ~~(or his alternate),~~Carolina (or the Chief Justice's designee), the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of Public Safety, ~~the Secretary of the Division of Juvenile Justice of the Department of Public Safety,~~Safety (or the Secretary's designee), and the Superintendent of Public Instruction;
 - b. A judge of superior court, a judge of district court specializing in juvenile matters, a chief district court judge, a clerk of superior court, and a district attorney;
 - c. A defense attorney, three sheriffs (one of whom shall be from a "high crime area"), three police executives (one of whom shall be from a "high crime area"), eight citizens (two with knowledge of juvenile delinquency and the public school system, two of whom shall be under the age of 21 at the time of their appointment, one advocate for victims of all crimes, one representative from a domestic violence or sexual assault program, one representative of a "private juvenile delinquency program," and one in the discretion of the Governor), three county commissioners or county officials, and three mayors or municipal officials;
 - d. Two members of the North Carolina House of Representatives and two members of the North Carolina Senate.
- (2) The nonvoting members shall be the Director of the State Bureau of Investigation, ~~the Secretary of the Department of Public Safety, the Assistant Secretary of Intervention/Prevention~~Deputy Director of the Division of Juvenile Justice of the Department of Public ~~Safety,~~Safety who is

~~responsible for Intervention/Prevention programs, the Assistant Secretary of Youth Development~~ Deputy Director of the Division of Juvenile Justice of the Department of Public Safety, ~~Safety who is responsible for Youth Development programs, the Director~~ Section Chief of the Section of Prisons of the Division of Adult Correction and the ~~Director~~ Section Chief of the Section of Community Corrections of the Division of Adult Correction.

(b) The membership of the Commission shall be selected as follows:

- (1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of Public Safety, the Director of the State Bureau of Investigation, the ~~Secretary of the Department of Public Safety, the Director~~ Section Chief of the Section of Prisons of the Division of Adult Correction, the ~~Director~~ Section Chief of the Section of Community Corrections of the Division of Adult Correction, the ~~Secretary of the Division of Juvenile Justice of the Department of Public Safety, the Assistant Secretary of~~ Deputy Director who is responsible for Intervention/Prevention of the Division of Juvenile Justice of the Department of Public Safety, the ~~Assistant Secretary of~~ Deputy Director who is responsible for Youth Development of the Division of Juvenile Justice of the Department of Public Safety, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.
- (2) The following members shall be appointed by the Governor: the district attorney, the defense attorney, the three sheriffs, the three police executives, the eight citizens, the three county commissioners or county officials, the three mayors or municipal officials.
- (3) The following members shall be appointed by the Governor from a list submitted by the Chief Justice of the Supreme Court, which list shall contain no less than three nominees for each position and which list must be submitted within 30 days after the occurrence of any vacancy in the judicial membership: the judge of superior court, the clerk of superior court, the judge of district court specializing in juvenile matters, and the chief district court judge.
- (4) The two members of the House of Representatives provided by subdivision (a)(1)d. of this section shall be appointed by the Speaker of the House of Representatives and the two members of the Senate provided by subdivision (a)(1)d. of this section shall be appointed by the President Pro Tempore of the Senate. These members shall perform the advisory review of the State plan for the General Assembly as permitted by section 206 of the Crime Control Act of 1976 (Public Law 94-503).
- (5) The Governor may serve as chairman, designating a vice-chairman to serve at his pleasure, or he may designate a chairman and vice-chairman both of whom shall serve at his pleasure.

(c) The initial members of the Commission shall be those appointed under subsection (b) above, which appointments shall be made by March 1, 1977. The terms of the present members of the Governor's Commission on Law and Order shall expire on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other than those serving by virtue of their office, to serve staggered terms; seven shall be appointed for one-year terms, seven for two-year terms, and seven for three-year terms. At the end of their respective terms of office their successors shall be appointed for terms of three years and until their successors are

appointed and qualified. The Commission members from the House and Senate shall serve two-year terms effective March 1, of each odd-numbered year; and they shall not be disqualified from Commission membership because of failure to seek or attain reelection to the General Assembly, but resignation or removal from office as a member of the General Assembly shall constitute resignation or removal from the Commission. Any other Commission member no longer serving in the office from which he qualified for appointment shall be disqualified from membership on the Commission. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

(d) The Governor shall have the power to remove any member from the Commission for misfeasance, malfeasance or nonfeasance.

(e) The Commission shall meet quarterly and at other times at the call of the chairman or upon written request of at least eight of the members. A majority of the voting members shall constitute a quorum for the transaction of business.

(f) The Commission shall be treated as a board for purposes of Chapter 138A of the General Statutes."

SECTION 55. G.S. 143B-1152 reads as rewritten:

"§ 143B-1152. Definitions.

The following definitions apply in this Subpart:

- (1) Certified and licensed. – North Carolina Substance Abuse Professional Practice Board certified or licensed substance abuse professionals or Department of Health and Human Services licensed agencies.
- (2) Division. – The Division of Adult Correction.
- ~~(3) Division. – The Section of Prisons of the Division of Adult Corrections.~~
- (4) Eligible entity. – A local or regional government, a nongovernmental entity, or collaborative partnership that demonstrates capacity to provide services that address the criminogenic needs of offenders.
- (5) Program. – A community-based corrections program.
- (6) Secretary. – The Secretary of ~~the Department of Correction~~ Public Safety.
- ~~(6a) Section. – The Section of Community Corrections of the Division of Adult Correction.~~
- (7) State Board. – The State Community Corrections Advisory Board."

SECTION 56. G.S. 143B-1155 reads as rewritten:

"§ 143B-1155. Duties of Division of Adult Correction.

(a) In addition to those otherwise provided by law, the Division of Adult Correction shall have the following duties:

- (1) To enter into contractual agreements with eligible entities for the operation of community-based corrections programs and monitor compliance with those agreements.
- (2) To develop the minimum program standards, policies, and rules for community-based corrections programs and to consult with the Department of Health and Human Services on those standards, policies, and rules that are applicable to licensed and credentialed substance abuse services.
- (3) To monitor, oversee, and evaluate contracted service providers.
- (4) To act as an information clearinghouse regarding community-based corrections programs.
- (5) To collaborate with the Department of Health and Human Services on focusing treatment resources on high-risk and moderate to high need offenders on probation, parole, and post-release supervision.

(b) ~~The Division of Adult Correction, Section of Prisons~~ Community Corrections of the Division of Adult ~~Correction, Correction~~ shall develop and publish a recidivism reduction plan for the State that accomplishes the following:

- (1) Articulates a goal of reducing revocations among people on probation and post-release supervision by twenty percent (20%) from the rate in the 2009-2010 fiscal year.
- (2) Identifies the number of people on probation and post-release supervision in each county that are in the priority population and have a likely need for substance abuse and/or mental health treatment, employment, education, and/or housing.
- (3) Identifies the program models that research has shown to be effective at reducing recidivism for the target population and ranks those programs based on their cost-effectiveness.
- (4) Propose a plan to fund the provision of the most cost-effective programs and services across the State. The plan shall describe the number and types of programs and/or services to be funded in each region of the State and how that program capacity compares with the needs of the target population in that region.

(c) The Division of Adult Correction shall report by March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Committees, the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative ~~Corrections, Crime Control, and Juvenile Justice~~ Oversight Committee on Justice and Public Safety on the status of the Treatment for Effective Community Supervision Program. The report shall include the following information:

- (1) The dollar amount and purpose of funds provided on a contractual basis to service providers for the previous fiscal year.
- (2) An analysis of offender participation data received, including the following:
 - a. The number of people on probation and post-release supervision that are in the priority population that received services.
 - b. The number of people on probation and post-release supervision that are in the priority population that did not receive services.
 - c. The number of people on probation and post-release supervision outside of the priority population that received services.
 - d. The type of services provided to these populations.
 - e. The rate of revocations and successful completions for people who received services.
 - f. Other measures as determined appropriate.
- (3) The dollar amount needed to provide additional services to meet the needs of the priority population in the upcoming budget year.
- (4) Details of personnel, travel, contractual, operating, and equipment expenditures for each program type."

SECTION 57. G.S. 146-33 reads as rewritten:

"§ 146-33. **State agencies to locate and mark boundaries of lands.**

Every State agency shall locate and identify, and shall mark and keep marked, the boundaries of all lands allocated to that agency or under its control. The Department of Administration shall locate and identify, and mark and keep marked, the boundaries of all State lands not allocated to or under the control of any other State agency. The chief administrative officer of every State agency is authorized to contract with the ~~State~~ Division of Adult Correction of the Department of Public Safety for the furnishing, upon such conditions as may be agreed upon from time to time between the ~~State~~ Division of Adult Correction of the Department of Public Safety and the chief administrative officer of that agency, of prison labor for use where feasible in the performance of these duties."

SECTION 58. G.S. 147-12(b) reads as rewritten:

"(b) The Department of Transportation, the Division of Adult Correction of the Department of Public Safety, ~~the Department of Public Safety,~~ the State Highway Patrol, the

Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, and the Division of Marine Fisheries in the Department of Environment and Natural Resources shall deliver to the Governor by February 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The Administrative Office of the Courts shall deliver to the ~~Governor~~Governor, by February 1 of each ~~year~~year, detailed information on the enforcement of the littering laws of the State, including the number of charges and convictions under the littering laws of the State. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated annual ~~report~~report, on or before March 1 of each ~~year~~year, to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources."

SECTION 59. G.S. 148-26(f) reads as rewritten:

"(f) Adult inmates of the State prison system shall be prohibited from working at or being on the premises of any schools or institutions operated or administered by the Youth Development ~~Division~~Section of the Division of Juvenile Justice of the Department of Public ~~Safety~~Safety unless a complete sight and sound barrier is erected and maintained during the course of the labor performed by the adult inmates."

SECTION 60. G.S. 162-39(c) reads as rewritten:

"(c) The sheriff of the county from which the prisoner is removed shall be responsible for conveying the prisoner to the jail or prison unit where he is to be held, and for returning him to the common jail of the county from which he was transferred. The return shall be made at the expiration of the time designated in the court order directing the transfer unless the judge, by appropriate order, shall direct otherwise. The sheriff or keeper of the jail of the county designated in the court order, or the officer in charge of the prison unit designated by the Secretary of Public Safety, shall receive and release custody of the prisoner in accordance with the terms of the court order. If a prisoner is transferred to a unit of the State prison system, the county from which the prisoner is transferred shall pay the Division of Adult Correction of the Department of Public Safety for maintaining the prisoner for the time designated by the court at the per day, per inmate rate at which the Division of Adult Correction of the Department of Public Safety pays a local jail for maintaining a prisoner. The county shall also pay the Division of Adult Correction of the Department of Public Safety for the costs of extraordinary medical care incurred while the prisoner was in the custody of the Division of Adult Correction of the Department of Public Safety, defined as follows:

- (1) Medical expenses incurred as a result of providing health care to a prisoner as an inpatient (hospitalized);
- (2) Other medical expenses when the total cost exceeds thirty-five dollars (\$35.00) per occurrence or illness as a result of providing health care to a prisoner as an outpatient (nonhospitalized); and
- (3) Cost of replacement of eyeglasses and dental prosthetic devices if those eyeglasses or devices are broken while the prisoner is incarcerated, provided the prisoner was using the eyeglasses or devices at the time of his commitment and then only if prior written consent of the county is obtained by the Division.

If the prisoner is transferred to a jail in some other county, the county from which the prisoner is transferred shall pay to the county receiving the prisoner in its jail the actual cost of maintaining the prisoner for the time designated by the court. Counties are hereby authorized to enter into contractual agreements with other counties to provide jail facilities to which prisoners may be transferred as deemed necessary under this section.

Whenever prisoners are arrested in such numbers that county jail facilities are insufficient and inadequate for the safekeeping of such prisoners, the resident judge of the superior court or any superior or district court judge holding court in the district may order the prisoners transferred to a unit of the ~~State~~Division of Adult Correction of the Department of Public

Safety designated by the Secretary of Public Safety or his authorized representative, where the prisoners may be held for such length of time as the judge may direct, such detention to be in cell separate from that used for imprisonment of persons already convicted of crimes, except when admission to an inpatient prison medical or mental health unit is required to provide services deemed necessary by a prison health care clinician. The sheriff of the county from which the prisoners are removed shall be responsible for conveying the prisoners to the prison unit or units where they are to be held, and for returning them to the common jail of the county from which they were transferred. However, if due to the number of prisoners to be conveyed the sheriff is unable to provide adequate transportation, he may request the assistance of the Division of Adult Correction of the Department of Public Safety, and the Division of Adult Correction of the Department of Public Safety is hereby authorized and directed to cooperate with the sheriff and provide whatever assistance is available, both in vehicles and manpower, to accomplish the conveying of the prisoners to and from the county to the designated prison unit or units. The officer in charge of the prison unit designated by the Secretary of Public Safety or his authorized representative shall receive and release the custody of the prisoners in accordance with the terms of the court order. The county from which the prisoners are transferred shall pay to the Division of Adult Correction of the Department of Public Safety the actual cost of transporting the prisoners and the cost of maintaining the prisoners at the per day, per inmate rate at which the Division of Adult Correction of the Department of Public Safety pays a local jail for maintaining a prisoner, provided, however, that a county is not required to reimburse the State for transporting or maintaining a prisoner who was a resident of another state or county at the time he was arrested. However, if the county commissioners shall certify to the Governor that the county is unable to pay the bill submitted by the ~~State~~ Division of Adult Correction of the Department of Public Safety to the county for the services rendered, either in whole or in part, the Governor may recommend to the Council of State that the State of North Carolina assume and pay, in whole or in part, the obligation of the county to the Division of Adult Correction of the Department of Public Safety, and upon approval of the Council of State the amount so approved shall be paid from Contingency and Emergency Fund to the Division of Adult Correction of the Department of Public Safety.

When, due to an emergency, it is not feasible to obtain from a judge of the superior or district court a prior order of transfer, the sheriff of the county and the Division of Adult Correction of the Department of Public Safety may exercise the authority hereinafter conferred; provided, however, that the sheriff shall, as soon as possible after the emergency, obtain an order from the judge authorizing the prisoners to be held in the designated place of confinement for such period as the judge may direct. All provisions of this subsection shall be applicable to municipalities whenever prisoners are arrested in such numbers that the municipal jail facilities and the county jail facilities are insufficient and inadequate for the safekeeping of the prisoners. The chief of police is hereby authorized to exercise the authority herein conferred upon the sheriff, and the municipality shall be liable for the cost of transporting and maintaining the prisoners to the same extent as a county would be unless action is taken by the Governor and Council of State as herein provided for counties which are unable to pay such costs."

SECTION 61. The Revisor of Statutes shall delete throughout Chapter 148 of the General Statutes the words "State" or "North Carolina" if the words appear directly before the phrase "Division of Adult Correction."

PART III. TRANSFER EVIDENCE WAREHOUSE

SECTION 62. Section 19.1(cc) of S.L. 2011-145 is repealed.

SECTION 63. The evidence warehouse that was operated by the Law Enforcement Support Services Division of the Department of Crime Control and Public Safety prior to January 1, 2012, is transferred to the Office of External Affairs in the Department of Public Safety. All State-owned personal property located in or associated with the warehouse and all evidence of any type, including rape kits, located in the warehouse are reallocated to the Office of External Affairs in the Department of Public Safety. The warehouse shall be known as the

"Victim Services Warehouse." The Department of Public Safety shall assume any lease to which the warehouse is subject at the time this section becomes effective.

SECTION 64. G.S. 143B-600(a)(7) reads as rewritten:

"(7) The Office of External Affairs, which shall be responsible for federal and State liaison activities, victim services, the Victim Services Warehouse and the storage and management of evidence and other contents housed in the warehouse, and public affairs."

SECTION 65. G.S. 143B-601 is amended by adding the following new subdivisions to read:

"(12) To provide central storage and management of evidence according to the provisions of Article 13 of Chapter 15A of the General Statutes and create and maintain a databank of statewide storage locations of postconviction evidence or other similar programs.

(13) To provide central storage and management of rape kits according to the federal Violence Against Women and Department of Justice Reauthorization Act of 2005 with specific protections against release of names of victims providing anonymous or "Jane Doe" rape kits without victim consent.

(14) To provide for the storage and management of evidence."

SECTION 66. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 4:40 p.m. on the 26th day of June, 2012.

Session Law 2012-84

S.B. 890

AN ACT TO CODIFY THE PROVISIONS OF EXECUTIVE ORDER NO. 2 THAT DELEGATE TO THE SECRETARY OF TRANSPORTATION THE AUTHORITY TO APPROVE HIGHWAY CONSTRUCTION PROJECTS AND CONSTRUCTION PLANS AND TO AWARD HIGHWAY CONSTRUCTION CONTRACTS, REQUIRE THE DEPARTMENT OF TRANSPORTATION TO DEVELOP AND UTILIZE A STRATEGIC PRIORITIZATION PROCESS FOR SELECTION OF TRANSPORTATION PROJECTS, AND STRENGTHEN THE BOARD OF TRANSPORTATION ETHICS POLICY, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-350(g) reads as rewritten:

"(g) Delegation of Board Duties. – The Board of Transportation ~~may, in its discretion, shall~~ delegate to the Secretary of Transportation the ~~authority; authority under subdivisions (1) and (2) of this subsection, and may delegate the authority under subdivision (3) of this subsection:~~

(1) To approve all highway construction projects and construction plans for the construction of projects;

(2) To award all highway construction contracts;

(3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

The Secretary may, in turn, subdelegate these duties and powers."

SECTION 2. G.S. 136-18 is amended by adding a new subdivision to read:

"(42) The Department shall develop and utilize a process for selection of transportation projects that is based on professional standards in order to most efficiently use limited resources to benefit all citizens of the State. The

strategic prioritization process should be a systematic, data-driven process that includes a combination of quantitative data, qualitative input, and multimodal characteristics, and should include local input. The Department shall develop a process for standardizing or approving local methodology used in Metropolitan Planning Organization and Rural Transportation Planning Organization prioritization."

SECTION 3. G.S. 143B-350 is amended by adding a new subsection to read:

"(o) Additional Ethics Requirements. – Board members shall sign a sworn statement that they will abide by the disclosure, ethics, and education requirements of this section and of Chapter 138A of the General Statutes. Following the convening of each Board of Transportation meeting, and prior to the conduct of business, each Board member shall sign a sworn statement that the member has no financial, professional, or other interest in any project being considered on the meeting agenda. To the extent the Board member has such an interest, the chair and member shall take all appropriate steps to ensure that the interest is properly evaluated and addressed in accordance with law and that the member is not permitted to act on any matter in which the member has a disqualifying conflict of interest."

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

In the General Assembly read three times and ratified this the 19th day of June, 2012.

Became law upon approval of the Governor at 4:42 p.m. on the 26th day of June, 2012.

Session Law 2012-85

S.B. 895

AN ACT TO AMEND STATUTES RELATED TO MOTORCYCLE LICENSES, TO DELAY THE IMPLEMENTATION OF TWO CHANGES TO DRIVERS LICENSES PENDING AN INFORMATION TECHNOLOGY SYSTEM UPGRADE, TO UPDATE CHAPTER 136 OF THE GENERAL STATUTES WITH THE TERM "CHIEF ENGINEER," WHICH REPLACES THE TERM "STATE HIGHWAY ADMINISTRATOR," AND TO AUTHORIZE RECIPROCITY AGREEMENTS FOR TOLL PAYMENTS BETWEEN THE NORTH CAROLINA TURNPIKE AUTHORITY AND OTHER TOLL AGENCIES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(a1) and (a2) read as rewritten:

"(a1) Motorcycles and Mopeds. – To drive a motorcycle, a person shall have one of the following:

- (1) A full provisional license with a motorcycle learner's permit.
- (2) A regular drivers license with a motorcycle learner's permit.
- (3) A full provisional license with a motorcycle endorsement.
- (4) A regular drivers ~~license, license~~ with a motorcycle endorsement.

Subsection (a2) of this section sets forth the requirements for a motorcycle learner's permit. To obtain a motorcycle endorsement, a person shall pay the fee set in subsection (i) of this section. In addition, to obtain an endorsement, a person age 18 or older shall demonstrate competence to drive a motorcycle by passing a ~~written or oral knowledge~~ test concerning ~~motorcycles~~ motorcycles, and by passing a road test, ~~and a test or providing proof of successful completion of one of the following:~~

- (1) The North Carolina Motorcycle Safety Education Program Basic Rider Course or Experienced Rider Course.
- (2) Any course approved by the Commissioner consistent with the instruction provided through the Motorcycle Safety Instruction Program established under G.S. 115D-72.

A person less than 18 years of age shall demonstrate competence to drive a motorcycle by passing a ~~written or oral~~ knowledge test concerning motorcycles and providing proof of successful completion of one of the following:

- (1) ~~The Motorcycle Safety Foundation Basic Rider Course or Experienced Rider Course.~~
- (2) The North Carolina Motorcycle Safety Education Program Basic Rider Course or Experienced Rider Course.
- (3) Any course approved by the Commissioner consistent with the instruction provided through the Motorcycle Safety Instruction Program established under G.S. 115D-72.

A person less than 18 years of age with a motorcycle endorsement may not drive a motorcycle with a passenger.

Neither a drivers license nor a motorcycle endorsement is required to drive a moped.

(a2) Motorcycle Learner's Permit. – The following persons are eligible for a motorcycle learner's permit:

- (1) A person who is at least 16 years old but less than 18 years old and has a full provisional license issued by the Division.
- (2) A person who is at least 18 years old and has a license issued by the Division.

To obtain a motorcycle learner's permit, an applicant shall pass a vision test, a road sign test, and a ~~written~~ knowledge test specified by the Division. An applicant who is less than 18 years old shall successfully complete ~~the Motorcycle Safety Foundation Basic Rider Course or the North Carolina Motorcycle Safety Education Program Basic Rider Course.~~ Course or any course approved by the Commissioner consistent with the instruction provided through the Motorcycle Safety Instruction Program established under G.S. 115D-72. A motorcycle learner's permit expires twelve months after it is issued and may be renewed for one additional six-month period. The holder of a motorcycle learner's permit may not drive a motorcycle with a passenger. The fee for a motorcycle learner's permit is the amount set in G.S. 20-7(1) for a learner's permit."

SECTION 2. Section 3 of S.L. 2011-35 reads as rewritten:

"SECTION 3. This act becomes effective ~~when the Division of Motor Vehicles has completed the implementation of the Division's Next Generation Secure Driver License System or July 1, 2012, whichever occurs first, and applies to drivers licenses issued on or after that date.~~ on the later of the following dates and applies to drivers licenses issued on or after that date:

- (1) January 1, 2013.
- (2) The first day of a month that is 30 days after the Commissioner of Motor Vehicles certifies to the Revisor of Statutes that the Division of Motor Vehicles has completed the implementation of the Division's Next Generation Secure Driver License System."

SECTION 3. Section 2 of S.L. 2011-228 reads as rewritten:

"SECTION 2. This act becomes effective ~~July 1, 2012, and applies to endorsements issued for commercial drivers licenses on or after that date.~~ on the later of the following dates and applies to endorsements issued for commercial drivers licenses issued on or after that date:

- (1) January 1, 2013.
- (2) The first day of a month that is 30 days after the Commissioner of Motor Vehicles certifies to the Revisor of Statutes that the Division of Motor Vehicles has completed the implementation of the Division's Next Generation Secure Driver License System."

SECTION 4. G.S. 136-4 reads as rewritten:

"§ 136-4. State Highway Administrator, Chief Engineer.

There shall be a ~~State Highway Administrator,~~ Chief Engineer, who shall be a career official and who shall be the administrative officer of the Department of Transportation for

highway matters. The ~~State Highway Administrator~~Chief Engineer shall be appointed by the Secretary of Transportation and he may be removed at any time by the Secretary of Transportation. He shall be paid a salary to be set in accordance with Chapter 126 of the General Statutes, the State Personnel Act. The ~~State Highway Administrator~~Chief Engineer shall have such powers and perform such duties as the Secretary of Transportation shall prescribe."

SECTION 5. G.S. 136-18.3(a) reads as rewritten:

"(a) The Department of Transportation is authorized to issue permits to counties and municipalities for the location of containers on rights-of-way of state-maintained highways for the collection of garbage. Such containers may be located on highway rights-of-way only when authorized in writing by the ~~State Highway Administrator~~Chief Engineer in accordance with rules and regulations promulgated by the Department of Transportation. Such rules and regulations shall take into consideration the safety of travelers on the highway and the elimination of unsightly conditions and health hazards. Such containers shall not be located on fully controlled-access highways."

SECTION 6. G.S. 136-64.1(d) reads as rewritten:

"(d) The Department of Transportation shall have the discretion to deny any application submitted pursuant to this section, or it may grant a permit on any condition it deems warranted. The Department, however, shall consider the use of alternate routes available during flooding of the roads, and any inconvenience to the public or temporary loss of access to business, homes and property. The Department shall have the authority to promulgate regulations for the issuance of permits under this section and it may delegate the authority for the consideration, issuance or denial of such permits to the ~~State Highway Administrator~~Chief Engineer. Any applicant granted a permit pursuant to this section shall cause suitable markers to be installed on the secondary road to advise the general public of the intermittent closing of the road or roads involved. Such markers shall be located and approved by the ~~State Highway Administrator~~Chief Engineer."

SECTION 7. G.S. 136-89.59(1) reads as rewritten:

"(1) Thirty-day permits shall be issued without cost by the Highway Division Engineer. Permits shall be subject to revocation by the ~~State Highway Administrator~~Chief Engineer for violations of this section. The applicant must be a nonprofit organization showing a record of concern for automotive, highway, or driver safety."

SECTION 8. G.S. 136-89.194(f) reads as rewritten:

"§ **136-89.194. Laws applicable to the Authority; exceptions.**

(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~~," "Chief Engineer," and a "State highway" are considered references to the "Turnpike Authority," the "chief engineer of the Turnpike Authority," and a "Turnpike project."

SECTION 9. G.S. 136-89.183(a) is amended by adding a new subdivision to read as follows:

"§ **136-89.183. Powers of the Authority.**

(a) The Authority shall have all of the powers necessary to execute the provisions of this Article, including the following:

...

(19) To enter into reciprocal toll enforcement agreements with other toll agencies, as provided in G.S. 136-89.220."

SECTION 10. G.S. 136-89.217 reads as rewritten:

"§ **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~~G.S. 136-89.216, as well as any toll, processing fee, or

civil penalty owed to another tolling jurisdiction with which the Authority has a valid reciprocal toll enforcement agreement under G.S. 136-89.220, 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) Repealed by S.L. 2010-133, s. 6, effective December 1, 2010."

SECTION 11. Part 2 of Article 6H of Chapter 136 of the General Statutes is amended by adding a new section to read as follows:

"§ 136-89.220. Reciprocal toll enforcement agreements.

The Authority may enter into reciprocal agreement with other tolling jurisdictions to enforce toll violations. Such an agreement shall provide that, when another toll agency certifies that the registered owner of a vehicle registered in this State has failed to pay a toll, processing fee, or civil penalty due to that toll agency, the unpaid toll, processing fee, or civil penalty may be enforced by the Authority placing a renewal block as if it were an unpaid toll, processing fee, or civil penalty owed to this State under G.S. 136-89.217. Such agreement shall only be enforceable, however, if all of the following are true:

- (1) The other toll agency has its own effective reciprocal procedure for toll violation enforcement and does, in fact, reciprocate in enforcing toll violations within this State by withholding the registration renewal of registered owners of motor vehicles from the state of the other toll agency.
- (2) The other toll agency provides due process and appeal protections to avoid the likelihood that a false, mistaken, or unjustified claim will be pursued against the owner of a vehicle registered in this State.
- (3) The owner of a vehicle registered in this State may present evidence to the other toll agency by mail or other means to invoke rights of due process without having to appear personally in the jurisdiction where the violation allegedly occurred.
- (4) The reciprocal violation enforcement arrangement between the Authority and the other toll agency provides that each party shall charge the other for costs associated with registration holds in their respective jurisdictions."

SECTION 12. When the Division of Motor Vehicles has completed the implementation of the Division's Next Generation Secure Driver License System, the Commissioner of Motor Vehicles shall certify to the Revisor of Statutes that the Division of Motor Vehicles has completed the implementation. When making the certification, the Commissioner of Motor Vehicles shall reference S.L. 2011-35, S.L. 2011-228, and the session law number of this act.

SECTION 13. Section 1 of this act becomes effective July 1, 2012. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of June, 2012.

Became law upon approval of the Governor at 4:44 p.m. on the 26th day of June, 2012.

Session Law 2012-86

S.B. 572

AN ACT TO MAKE STATEWIDE THE AUTHORITY PREVIOUSLY GRANTED TO NASH COUNTY SO AS TO ALLOW COUNTIES TO PROVIDE GRANTS TO PROMOTE HIGH-SPEED INTERNET ACCESS SERVICE IN UNSERVED AREAS FOR ECONOMIC DEVELOPMENT AND TO MAKE OTHER CLARIFYING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2011-163 reads as rewritten:

"SECTION 1. A county may provide grants to unaffiliated qualified private providers of high-speed Internet ~~broadband~~ access service, as that term is defined in G.S. 160A-340(4), for the purpose of expanding service in unserved areas for economic development in the county. The grants shall be awarded on a technology neutral basis, shall be open to qualified applicants, and may require matching funds by the private provider. A county shall seek and consider request for proposals from qualified private providers within the county prior to awarding a broadband grant and shall use reasonable means to ensure that potential applicants are made aware of the grant, including, at a minimum, compliance with the notice procedures set forth in G.S. 160A-340.6(c). The county shall use only unrestricted general fund revenue for the grants. For the purposes of this section, a qualified private provider is a private provider of high-speed Internet access service in the State prior to the issuance of the grant proposal."

SECTION 2. Section 3 of S.L. 2011-163 is repealed.

SECTION 3. This act is effective when it becomes law. Section 1 of this act shall not apply to any broadband grant process initiated by Nash County prior to June 1, 2012.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Became law upon approval of the Governor at 1:20 p.m. on the 28th day of June, 2012.

Session Law 2012-87

S.B. 661

AN ACT TO DIRECT THE STATE AUDITOR TO AUDIT THE ROANOKE ISLAND COMMISSION, INCLUDING FUNDS RECEIVED BY FRIENDS OF ELIZABETH II, INC.

The General Assembly of North Carolina enacts:

SECTION 1. The State Auditor shall conduct an investigative audit of the Roanoke Island Commission, which is a State commission that receives State funds. As part of its investigation, the Auditor shall carefully examine all funds that have been received by Friends of Elizabeth II, Inc., (Friends) from the Roanoke Island Commission or any other State entity, regardless of the characterization by any party of the nature of a transfer, and determine the following:

- (1) The balance of such funds still held by the Friends.
- (2) The interest earned on such funds and the rate of interest on such funds, both as of the time of the audit and over the period in which the Friends have held such funds.
- (3) The expenditure of funds received by the Friends from the Roanoke Island Commission or any other State entity.
- (4) Whether such funds have been used by the Friends for the purposes for which they were transferred.
- (5) Whether such funds were properly transferred by State entities to the Friends in accordance with the law.
- (6) Whether the use of such funds has been properly reported in accordance with the law.

The Auditor shall make recommendations based on the Auditor's findings and shall publish a report describing all issues investigated, a summary of the contents of documents examined and interviews conducted, all other findings, and the recommendations.

As part of its audit, the Auditor shall also review any memorandums of agreement, or similar arrangements, between the Roanoke Island Commission and the Friends and shall make recommendations as to what should be included in such an agreement between the Roanoke Island Commission and the Friends.

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

In the General Assembly read three times and ratified this the 27th day of June, 2012.

Became law upon approval of the Governor at 1:23 p.m. on the 28th day of June, 2012.

Session Law 2012-88

H.B. 605

AN ACT TO EXPAND THE DEFINITION OF LOCAL AGENCY FOR PURPOSES OF THE DEBT SETOFF COLLECTION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105A-2 reads as rewritten:

"§ 105A-2. Definitions.

The following definitions apply in this Chapter:

...

- (6) Local agency. – Any of the following:
- a. A county, to the extent it is not considered a State agency.
 - b. A municipality.
 - c. A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.
 - d. A regional joint agency created by interlocal agreement under Article 20 of Chapter 160A of the General Statutes between two or more counties, cities, or both.
 - e. A public health authority created under Part 1B of Article 2 of Chapter 130A of the General Statutes or other authorizing legislation.
 - f. A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.
 - g. A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.
 - h. A regional solid waste management authority created under Article 22 of Chapter 153A of the General Statutes.

...."

SECTION 2. This act becomes effective January 1, 2013, and applies to tax refunds determined by the Department on or after that date.

In the General Assembly read three times and ratified this the 27th day of June, 2012.

Became law upon approval of the Governor at 1:26 p.m. on the 28th day of June, 2012.

Session Law 2012-89

H.B. 1096

AN ACT TO SAVE MONEY BY REPEALING A STATUTE REQUIRING LOCAL SCHOOL ADMINISTRATIVE UNITS, COMMUNITY COLLEGES, AND THE UNIVERSITY OF NORTH CAROLINA TO HAVE SEPARATE BIDS FOR JUICE AND WATER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64 is repealed.

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

In the General Assembly read three times and ratified this the 27th day of June, 2012.

Became law upon approval of the Governor at 1:29 p.m. on the 28th day of June, 2012.

Session Law 2012-90

S.B. 798

AN ACT TO MAKE VARIOUS CHANGES TO THE EMERGENCY MANAGEMENT STATUTES; AND TO ESTABLISH THE JOINT LEGISLATIVE EMERGENCY MANAGEMENT OVERSIGHT COMMITTEE, AS RECOMMENDED BY THE SENATE SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND RESPONSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-6 reads as rewritten:

"§ 166A-6. **State of disaster.**

(a) The existence of a state of disaster may be proclaimed by the Governor, or by a resolution of the General Assembly if either of these finds that a disaster threatens or exists.

(a1) If a state of disaster is proclaimed, the Secretary shall provide the Governor and the General Assembly with a preliminary damage assessment as soon as the assessment is available. Upon receipt of the preliminary damage assessment, the Governor shall issue a proclamation defining the area subject to the state of disaster and proclaiming the disaster as a Type I, Type II, or Type III disaster. In determining whether the disaster shall be proclaimed as a Type I, Type II, or Type III disaster, the Governor shall follow the standards set forth below.

(1) A Type I disaster may be declared if all of the following criteria are met:

- a. A local state of emergency has been declared pursuant to G.S. 166A-8, and a written copy of the declaration has been forwarded to the Governor;
- b. The preliminary damage assessment meets or exceeds the criteria established for the Small Business Administration Disaster Loan Program pursuant to 13 C.F.R. Part 123 or meets or exceeds the State infrastructure criteria set out in G.S. 166A-6.01(b)(2)a.; and
- c. A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

A Type I disaster declaration may be made by the Governor prior to, and independently of, any action taken by the Small Business Administration, the Federal Emergency Management Agency, or any other federal agency. A Type I disaster declaration shall expire ~~30 days~~60 days after its issuance 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.

(2) A Type II disaster may be declared if the President of the United States has issued a major disaster declaration pursuant to the Stafford Act. The Governor may request federal disaster assistance under the Stafford Act without making a Type II disaster declaration. A Type II disaster declaration shall expire ~~six months~~12 months after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of three months ~~each, not to each.~~ A Type II disaster declaration and any renewals of that declaration shall not exceed a total of 12 months

~~from the date of first issuance. 24 months.~~ The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type II disaster declaration.

- (3) A Type III disaster may be declared if the President of the United States has issued a major disaster declaration under the Stafford Act and:
- a. The preliminary damage assessment indicates that the extent of damage is reasonably expected to meet the threshold established for an increased federal share of disaster assistance under applicable federal law and regulations; or
 - b. The preliminary damage assessment prompts the Governor to call a special session of the General Assembly to establish programs to meet the unmet needs of individuals or political subdivisions affected by the disaster.

A Type III disaster declaration shall expire ~~12 months~~ 24 months after its issuance unless renewed by the General Assembly.

(a2) Any state of disaster declared before July 1, 2001, shall terminate by a proclamation of the Governor or resolution of the General Assembly. A proclamation or resolution declaring or terminating a state of disaster shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, promptly filed with the Secretary of Public Safety, the Secretary of State and the clerks of superior court in the area to which it applies.

(a3) Expiration of a Type II or III disaster declaration shall not affect the State's obligations under federal-State agreements entered into prior to the expiration of the disaster declaration.

...."

SECTION 2. G.S. 166A-15 reads as rewritten:

"§ **166A-15. No private liability.**

Any person, firm or ~~corporation~~ corporation, together with any successors in interest, if any, owning or controlling real or personal property who, voluntarily or involuntarily, knowingly or unknowingly, with or without compensation, grants a license or privilege or otherwise permits or allows the designation or use of the whole or any part or parts of such real or personal property for the purpose of ~~sheltering, protecting, safeguarding or aiding in any way~~ persons shall, together with his successors in interest, if any, activities or functions relating to emergency management as provided for in this Chapter or elsewhere in the General Statutes shall not be civilly liable for the death of or injury to any person or the loss of or damage to the property of any persons where such death, injury, loss or damage resulted from, through or because of the use of the said real or personal property for any of the above ~~purposes~~ purposes, provided that the use of said property is subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof."

SECTION 3. G.S. 166A-4 is amended by adding a new subdivision to read:

- "(11) State Emergency Response Team. – The representative group of State agency personnel designated to carry out the emergency management support functions identified in the Plan. The State Emergency Response Team leader shall be the Director of the Division, who shall have authority to manage the Team pursuant to G.S. 166A-5(3)a., as delegated by the Governor. The Team shall consist of the following State agencies:
- a. Department of Public Safety.
 - b. Department of Transportation.
 - c. Department of Health and Human Services.
 - d. Department of Environment and Natural Resources.
 - e. Department of Agriculture and Consumer Services.
 - f. Any other agency identified in the North Carolina Emergency Operations Plan."

SECTION 4. G.S. 166A-5(3)a. reads as rewritten:

"(3) Functions of State Emergency Management. – The functions of the State emergency management program include:

- a. Coordination of the activities of all agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and the activation ~~of~~ and management of the State Emergency Response Team and emergency management programs."

SECTION 5. G.S. 166A-5(3) is amended by adding a new sub-subdivision to read:

"(3) Functions of State Emergency Management. – The functions of the State emergency management program include:

- ...
b1. Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:

1. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.

- ...
b3. Coordination with the Commissioner of Agriculture, or the Commissioner's designee, to amend or revise the North Carolina Emergency Operations Plan regarding agricultural matters. At a minimum, the revisions to the Plan shall provide for the following:

1. The examination and testing of animals that may have been exposed to a nuclear, biological, or chemical agent.

2. The appropriate conditions for quarantine and isolation of animals in order to prevent further transmission of disease.

...."

SECTION 6. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 12Q.

"Joint Legislative Emergency Management Oversight Committee.

"§ 120-70.150. Creation and membership of Joint Legislative Emergency Management Oversight Committee.

The Joint Legislative Emergency Management Oversight Committee is established. The Committee consists of 12 members as follows:

- (1) Six members of the Senate appointed by the President Pro Tempore of the Senate; and
(2) Six members of the House of Representatives appointed by the Speaker of the House of Representatives.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 2013 General Assembly. 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 a successor is appointed. A vacancy shall be filled by the officer who made the original appointment.

"§ 120-70.151. Purpose and powers of Committee.

(a) The Joint Legislative Emergency Management Oversight Committee shall examine, on a continuing basis, issues related to emergency management in North Carolina in order to make ongoing recommendations to the General Assembly on ways to promote effective emergency preparedness, management, response, and recovery. The Committee may examine:

- (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.
- (3) Hurricane preparedness, evacuation, and response.
- (4) Energy security issues.
- (5) Terrorism preparedness and response, including bioterrorism.
- (6) Flood and natural disaster preparation and response.
- (7) Any other topic the Committee believes is related to its purpose.

(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.

"§ 120-70.152. 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 Emergency Management Oversight Committee. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is seven members. Only recommendations, including proposed legislation, receiving at least six affirmative votes may be included in a Committee report to the General Assembly. 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) The cochairs of the Committee may call upon other knowledgeable persons or experts to assist the Committee in its work.

(d) Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. 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.

(e) In appointing members to the Committee, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall take into consideration the goal of having members appointed to the Committee who have knowledge and experience relating to areas that are most impacted by disasters and emergencies."

SECTION 7. G.S. 166A-19.21(c), as enacted by S.L. 2012-12, reads as rewritten:

"(c) Expiration of Disaster Declarations. –

- (1) Expiration of Type I disaster declarations. – A Type I disaster declaration shall expire ~~30 days~~60 days after its issuance 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.
- (2) Expiration of Type II disaster declarations. – A Type II disaster declaration shall expire ~~six months~~twelve months after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of three months ~~each, not to each.~~ A Type II disaster declaration and any renewals of that declaration shall not exceed a total of 12 months from the date of first issuance.24 months. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type II disaster declaration.

- (3) Expiration of Type III disaster declarations. – A Type III disaster declaration shall expire ~~12 months~~24 months after its issuance unless renewed by the General Assembly.
- (4) Expiration of disaster declarations declared prior to July 1, 2001. – Any state of disaster declared or proclaimed before July 1, 2001, irrespective of type, shall terminate by a declaration of the Governor or resolution of the General Assembly. A declaration or resolution declaring or terminating a state of disaster shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, promptly filed with the Secretary, the Secretary of State, and the clerks of superior court in the area to which it applies."

SECTION 8. G.S. 166A-19.21, as enacted by S.L. 2012-12, is amended by adding a new subsection to read:

"(d) Effect of Disaster Declaration Expiration. – Expiration of a Type II or III disaster declaration shall not affect the State's obligations under federal-State agreements entered into prior to the expiration of the disaster declaration."

SECTION 9. G.S. 166A-19.61, as enacted by S.L. 2012-12, reads as rewritten:

"§ 166A-19.61. No private liability.

Any person, firm, or ~~corporation~~ corporation, together with any successors in interest, if any, owning or controlling real or personal property who, voluntarily or involuntarily, knowingly or unknowingly, with or without compensation, grants a license or privilege or otherwise permits or allows the designation or use of the whole or any part or parts of such real or personal property for the purpose of ~~sheltering, protecting, safeguarding, or aiding in any way~~ persons shall, together with his successors in interest, if any, activities or functions relating to emergency management as provided for in this Chapter or elsewhere in the General Statutes shall not be civilly liable for the death of or injury to any person or the loss of or damage to the property of any persons where such death, injury, loss, or damage resulted from, through, or because of the use of the said real or personal property for any of the above ~~purposes~~ purposes, provided that the use of said property is subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof."

SECTION 10. G.S. 166A-19.3, as enacted by S.L. 2012-12, is amended by adding a new subdivision to read:

"(19) State Emergency Response Team. – The representative group of State agency personnel designated to carry out the emergency management support functions identified in the North Carolina Emergency Operations Plan. The State Emergency Response Team leader shall be the Director of the Division, who shall have authority to manage the Team pursuant to G.S. 166A-19.12(1), as delegated by the Governor. The Team shall consist of the following State agencies:

- a. Department of Public Safety.
- b. Department of Transportation.
- c. Department of Health and Human Services.
- d. Department of Environment and Natural Resources.
- e. Department of Agriculture and Consumer Services.
- f. Any other agency identified in the North Carolina Emergency Operations Plan."

SECTION 11. G.S. 166A-19.12(1), as enacted by S.L. 2012-12, reads as rewritten:

"§ 166A-19.12. Powers of the Division of Emergency Management.

The Division of Emergency Management shall have the following powers and duties as delegated by the Governor and Secretary of Public Safety:

- (1) Coordination of the activities of all State agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and activating and managing the State Emergency Response Team and emergency management programs."

SECTION 12. G.S. 166A-19.12, as enacted by S.L. 2012-12, is amended by adding a new subdivision to read:

"(20) Coordination with the Commissioner of Agriculture, or the Commissioner's designee, to amend or revise the North Carolina Emergency Operations Plan regarding agricultural matters. At a minimum, the revisions to the Plan shall provide for the following:

- a. The examination and testing of animals that may have been exposed to a nuclear, biological, or chemical agent.
- b. The appropriate conditions for quarantine and isolation of animals in order to prevent further transmission of disease."

SECTION 13. Sections 7 through 12 of this act are effective October 1, 2012. The remaining sections of this act are effective when they become law.

In the General Assembly read three times and ratified this the 19th day of June, 2012.

Became law upon approval of the Governor at 1:31 p.m. on the 28th day of June, 2012.

Session Law 2012-91

H.B. 952

AN ACT TO EXEMPT FROM STATE AIR TOXICS EMISSIONS CONTROLS THOSE SOURCES OF EMISSIONS THAT ARE SUBJECT TO CERTAIN FEDERAL EMISSIONS REQUIREMENTS, TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE PERMIT CONDITIONS THAT ELIMINATE UNACCEPTABLE RISKS TO HUMAN HEALTH, TO DIRECT THE DIVISION OF AIR QUALITY TO REVIEW THE STATE AIR TOXICS PROGRAM, AND TO REQUIRE REPORTS ON THE IMPLEMENTATION OF THIS ACT, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.107(a) reads as rewritten:

"(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

...

- (5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. ~~This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).~~ The Department shall implement rules adopted pursuant to this subsection as follows:

- a. Except as provided in sub-subdivision b. of this subdivision, rules adopted pursuant to this subdivision that control emissions of toxic air pollutants shall not apply to an air emission source that is any of the following:

1. Subject to an applicable requirement under 40 C.F.R. Part 61, as amended.
 2. An affected source under 40 C.F.R. Part 63, as amended.
 3. Subject to a case-by-case maximum achievable control technology (MACT) permit requirement issued by the Department pursuant to 42 U.S.C. § 7412(j), as amended.
- b. Upon receipt of a permit application for a new source or facility, or for the modification of an existing source or facility, that would result in an increase in the emission of toxic air pollutants, the Department shall review the application to determine if the emission of toxic air pollutants from the source or facility would present an unacceptable risk to human health. Upon making a written finding that a source or facility presents or would present an unacceptable risk to human health, the Department shall require the owner or operator of the source or facility to submit a permit application for any or all emissions of toxic air pollutants from the facility that eliminates the unacceptable risk to human health. The written finding may be based on modeling, epidemiological studies, actual monitoring data, or other information that indicates an unacceptable health risk. When the Department requires the owner or operator of a source or facility to submit a permit application pursuant to this sub-subdivision, the Department shall report to the Chairs of the Environmental Review Commission on the circumstances surrounding the permit requirement, including a copy of the written finding.

...."

SECTION 2. The Environmental Management Commission shall amend its rules adopted pursuant to G.S. 143-215.107(a) so that they are consistent with the provisions of Section 1 of this act.

SECTION 3. The Division of Air Quality of the Department of Environment and Natural Resources shall review toxic air pollutant rules adopted pursuant to G.S. 143-215.107(a) and the implementation of those rules to determine whether changes could be made to the rules or their implementation to reduce unnecessary regulatory burden and increase the efficient use of Division resources while maintaining protection of public health. The Division shall conduct this review in consultation with interested parties. The Division shall report the results of its review, including recommendations, if any, to the Environmental Review Commission no later than December 1, 2012.

SECTION 4. The Division of Air Quality in the Department of Environment and Natural Resources shall report on the implementation of this act to the Environmental Review Commission no later than December 1 for the years 2012, 2013, and 2014. The report shall include an analysis of air toxic emissions changes and a summary of results of the Division's analysis of air quality impacts.

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 1:34 p.m. on the 28th day of June, 2012.

Session Law 2012-92

S.B. 77

AN ACT PROVIDING THAT AFTER DECEMBER 31, 2012, LANDLORDS SHALL, WHEN INSTALLING A NEW SMOKE ALARM OR REPLACING AN EXISTING SMOKE ALARM, INSTALL A TAMPER-RESISTANT, TEN-YEAR LITHIUM BATTERY SMOKE ALARM EXCEPT IN CERTAIN CASES, AND PROVIDING THAT LANDLORDS MAY DEDUCT FROM THE TENANT SECURITY DEPOSIT DAMAGE TO A SMOKE ALARM OR CARBON MONOXIDE ALARM, AS RECOMMENDED BY THE NORTH CAROLINA CHILD FATALITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-42 reads as rewritten:

"§ 42-42. **Landlord to provide fit premises.**

(a) The landlord shall:

...

(5) Provide operable smoke ~~detectors,alarms~~, either battery-operated or electrical, having an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and install the smoke ~~detectors-alarms~~ 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. The landlord shall replace or repair the smoke ~~detectors alarms~~ 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 smoke ~~detector-alarm~~ 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 smoke ~~detector-alarm~~ at the beginning of a tenancy and the tenant shall replace the batteries as needed during the ~~tenancy-tenancy~~, except where the smoke alarm is a tamper-resistant, 10-year lithium battery smoke alarm as required by subdivision (5a) of this subsection. 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.

(5a) After December 31, 2012, when installing a new smoke alarm or replacing an existing smoke alarm, install a tamper-resistant, 10-year lithium battery smoke alarm. However, the landlord shall not be required to install a tamper-resistant, 10-year lithium battery smoke alarm as required by this subdivision in either of the following circumstances:

a. The dwelling unit is equipped with a hardwired smoke alarm with a battery backup.

b. The dwelling unit is equipped with a smoke alarm combined with a carbon monoxide alarm that meets the requirements provided in subdivision (7) of this section.

...

(7) Provide a minimum of one operable carbon monoxide ~~detector-alarm~~ 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-alarms~~ 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~~

alarm per rental unit per level shall be deemed to be in compliance with standards under this subdivision covering the location and number of ~~detectors-alarms~~. The landlord shall replace or repair the carbon monoxide ~~detectors-alarms~~ 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-alarm~~ 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-alarm~~ 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-alarm~~ may be combined with smoke ~~detectors-alarms~~ if the combined ~~detector-alarm~~ does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke ~~detectors-alarms~~; 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, appliance, or fireplace, and in any dwelling unit having an attached garage. Any operable carbon monoxide detector installed before January 1, 2010, shall be deemed to be in compliance with this subdivision.

...."

SECTION 2. G.S. 42-43 reads 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-alarm~~ or carbon monoxide ~~detector-alarm~~ 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-alarm~~ or carbon monoxide ~~detector-alarm~~. The landlord shall ensure that a smoke ~~detector-alarm~~ and carbon monoxide ~~detector-alarm~~ 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-alarm~~ and battery-operated carbon monoxide ~~detector-alarm~~ at the beginning of a tenancy and the tenant shall replace the batteries as needed during the ~~tenancy-tenancy~~, except where the smoke alarm is a tamper-resistant, 10-year lithium battery smoke alarm as required by G.S. 42-42(a)(5a). 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 3. G.S. 42-44 reads as rewritten:

"§ 42-44. **General remedies, penalties, and limitations.**

...

(a1) If a landlord fails to provide, install, replace, or repair a smoke ~~detector-alarm~~ under the provisions of G.S. 42-42(a)(5) or a carbon monoxide ~~detector-alarm~~ 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. After December 31, 2012, if the landlord installs a new smoke alarm or replaces an existing smoke alarm, the smoke alarm shall be a tamper-resistant, 10-year lithium battery smoke alarm, except as provided in G.S. 42-42(a)(5a). The landlord may temporarily disconnect a smoke ~~detector~~-alarm or carbon monoxide ~~detector~~-alarm in a dwelling unit or common area for construction or rehabilitation activities when such activities are likely to activate the smoke ~~detector~~-alarm or carbon monoxide ~~detector~~-alarm or make it inactive.

(a2) If a smoke ~~detector~~-alarm or carbon monoxide ~~detector~~-alarm 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~~-alarm or carbon monoxide ~~detector~~-alarm 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~~-alarm or carbon monoxide ~~detector~~-alarm in a dwelling unit to replace the batteries or when it has been inadvertently activated.

...."

SECTION 4. Sections 1 through 3 of this act become effective December 31, 2012. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 1:37 p.m. on the 28th day of June, 2012.

Session Law 2012-93

S.B. 813

AN ACT TO REQUIRE THE DEPARTMENT OF CULTURAL RESOURCES AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY VARIOUS REVENUE ENHANCEMENTS AND POTENTIAL SAVINGS AT STATE HISTORIC SITES AND MUSEUMS, THE STATE ZOO, STATE PARKS, AND STATE AQUARIUMS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Cultural Resources shall implement the following recommendations:

- (1) Study site proximity and span of control to identify historic sites that could adopt a coordinated management structure and report no later than December 15, 2012, to the Senate Appropriations Committee on General Government and Information Technology and the House Appropriations Committee on General Government.
- (2) Study reduced schedules for historic sites and report no later than December 15, 2012, to the Senate Appropriations Committee on General Government and Information Technology and the House Appropriations Committee on General Government.
- (3) Study the feasibility of implementing more reliable mechanisms for counting visitors and report no later than December 15, 2012, to the Senate Appropriations Committee on General Government and Information Technology and the House Appropriations Committee on General Government.
- (4) Determine the appropriate operating schedule for the Richard Caswell Memorial after the CSS Neuse moves to its new location.

- (5) Study potential savings from introducing and expanding admission fees; eliminating discounts or raising fees; adopting corporate sponsorship for some sites; and transferring operations to nonprofit support groups, municipalities, or other appropriate entities and report no later than December 15, 2012, to the Senate Appropriations Committee on General Government and Information Technology and the House Appropriations Committee on General Government. The report should specifically address potential savings at the following historic sites:
- a. Alamance Battleground.
 - b. Aycock Birthplace.
 - c. Bennett Place.
 - d. Bentonville Battlefield.
 - e. Charlotte Hawkins Brown Memorial.
 - f. Duke Homestead.
 - g. Historic Edenton.
 - h. Historic Stagville.
 - i. Museum of the Albemarle.
 - j. Thomas Wolfe Memorial.
 - k. Town Creek Indian Mound.

SECTION 2. The Department of Environment and Natural Resources shall implement the following recommendations:

- (1) Study site proximity and span of control to identify parks that could adopt a coordinated management structure and report no later than December 15, 2012, to the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources.
- (2) Study daily visitation data to determine potential changes from daily or seasonal closure of specific parks and report no later than December 15, 2012, to the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources.
- (3) Validate no less frequently than every five years the number of visitors per car used in the calculation of visitor counts at State parks. The first report on this analysis shall be presented to the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources no later than October 1, 2013.
- (4) Provide an analysis of anticipated State costs and savings from partnering with nonprofits for operations at the zoo and aquariums and recommendations for partnering based on the analysis no later than December 15, 2012, to the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources.
- (5) Study and report no later than December 15, 2012, to the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources regarding potential savings from each of the following changes:
 - a. Introducing or expanding admissions fees, eliminating discounts, or raising fees.
 - b. Adopting corporate sponsorship for some sites.
 - c. Transferring operations to nonprofit support groups, municipalities, or other appropriate entities.

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 1:40 p.m. on the 28th day of June, 2012.

Session Law 2012-94

S.B. 848

AN ACT INCORPORATING ADDITIONAL BASES FOR MAKING ASSESSMENTS UNDER THE CHARTER OF THE CITY OF DURHAM IN THE CASE OF BOTH PETITIONED AND NON-PETITIONED ASSESSMENTS.

Whereas, Section 77(14) of the Charter of the City of Durham (Charter) currently includes limited bases for making assessments against properties benefitting from improvements; and

Whereas, the limited bases for making assessments currently available under the Charter have the potential to allocate assessments to properties in a manner that is disproportionate to the benefits bestowed by the improvements to the properties; and

Whereas, by incorporating additional bases for making assessments into the Charter, the Durham City Council will be able to apportion both petitioned and non-petitioned assessments among the benefitted properties in a manner that is more reflective of the benefits bestowed on the benefitted properties; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Section 77(14) of the Charter of the City of Durham, being Chapter 671 of the Session Laws of 1975, as amended by Chapter 577 of the 1991 Session Laws, reads as rewritten:

"**Sec. 77.** Assessments for Water, Sewer, Street, Sidewalk, Grass Plot, Lighting, and Waterfront Improvements.

...

(14) Having determined such total cost, the City Council shall thereupon make a preliminary assessment as hereinafter set out in this section. Such preliminary assessment shall, however, be advisory only, and shall be subject to the action of the Council thereon as hereinafter set out in subsection 17 of this section. The preliminary assessment shall be made on the basis hereinafter set out in this subsection for the classes of improvements indicated; provided, that if the petition, or the resolution, in those cases where the improvement was ordered made without petition, specified that there should be specially assessed against the ~~abutting~~ benefited property a smaller proportion of the cost of any improvement than is hereinafter specified in this section, then there shall be assessed against the ~~abutting-benefiting~~ benefited property only such proportion of the cost of the improvement as was specified in the petition or in the resolution.

(a) Street paving. The total cost of any street paving improvement, exclusive of so much of the cost as is incurred at street intersections and the share of street railways or railroads, shall be specially assessed against the lots and parcels of land abutting directly on the street paved, according to the extent of their respective frontages thereon, by an equal rate per foot of such frontage. The cost of that part of the paving required to be borne by a street railway or railroad, which paving is done by the City after default by the street railway in making the same, as hereinbefore provided in this section, or which is done by the City by contract with the railway or railroad as provided in subsection 12 of this section, shall be assessed against the street railway or railroad, and the assessment shall be a lien on all of the franchises and property of the street railway or railroad company, and may be collected by sale of such

property and franchises as is provided in subsection 23 of this section; Provided, further, that in case of a corner lot, used as a single lot, the Council may provide by ordinance for the City to bear a part of the cost of paving in accordance with the following formula, the amounts or distances therein shown being maximum amounts or distances which may be reduced by the ordinance:

- (1) In the event that neither of the streets abutting a corner lot, used as a single lot, has ever been paved, such lot shall be exempt from assessment for the paving improvement along side of such lot to the extent of 20 per cent of the first 150 feet thereof or 30 feet, whichever is less. Thereafter, upon the paving of the intersecting street on which such lot abuts, such lot shall be exempt from assessment for the paving of the street to the extent of 50 per cent of the frontage on such street or 30 feet, whichever is less.
- (2) In the event that the street along side of a corner lot, used as a single lot, is paved and the intersecting street is to be paved, such lot shall be exempt from assessment for the paving of the intersecting street to the extent of 50 per cent of the frontage thereon or 30 feet, whichever is less.
- (3) In the event a street in front of a corner lot, used as a single lot, has been paved and the street along side of such lot is to be paved, the lot shall be exempt from assessment for the paving improvement along side of such lot to the extent of 40 percent of the frontage on such street or 60 feet, whichever is less.

The exemption herein provided shall apply only in areas zoned for residential use or for apartments, and such portion of the cost of construction as would otherwise be assessed against such corner lot shall be borne by the City;

(b) Sidewalks. The total cost of constructing or reconstructing sidewalks shall be assessed against the lots and parcels of land abutting on that side of the street upon which the improvement is made, according to their respective frontages thereon by an equal rate per foot of such frontage, the lots within a block being deemed to abut upon a sidewalk although the latter extends beyond the lots to the curb line of an intersecting street; Provided, further, that in case of a corner lot, used as a single lot, the Council may provide by ordinance for the City to bear a part of the cost of sidewalk improvements in accordance with the following formula, the amounts or distances therein shown being maximum amounts or distances which may be reduced by the ordinance:

- (1) In the event that neither of the streets abutting a corner lot, used as a single lot, has sidewalks, such lot shall be exempt from assessment for the sidewalk improvement along side of such lot to the extent of 20 per cent of the first 150 feet thereof or 30 feet, whichever is less. Thereafter, upon the construction of sidewalks on the intersecting street, on which such lot abuts, such lot shall be exempt from assessment for the sidewalk improvement on the street to the extent of 50 per cent of the frontage on such street or 30 feet, whichever is less.
- (2) In the event that the street along side of a corner lot, used as a single lot, has sidewalks and sidewalks are constructed on the intersecting street, such lot shall be exempt from assessment for the sidewalks on the intersecting street to the extent of 50 per cent of the frontage thereon or 30 feet, whichever is less.
- (3) In the event a street in front of a corner lot, used as a single lot, has sidewalks and sidewalks are to be constructed on the intersecting street, the lot shall be exempt from assessment for the sidewalk improvement along side of such lot to the extent of 40 per cent of the frontage thereon or 60 feet, whichever is less.

The exemptions herein provided shall apply only in areas zoned for residential use or for apartments, and such portion of the cost of construction as would otherwise be assessed against such corner lot shall be borne by the City;

(c) Water mains and sewers. In the case of water mains and storm and sanitary sewers, the cost of not exceeding an eight-inch water or sanitary sewer main and of not exceeding a thirty-inch storm sewer main and of such portion of the mains as lie within the limits of the street or streets, or parts thereof, to be improved as provided in the petition or resolution ordering the same, shall be assessed against the abutting property. Such cost shall be assessed against the lots and parcels of land abutting on the street or streets, or parts thereof, according to their respective frontages thereon (i.e., the entire frontage benefited by the water or sanitary sewer project) by an equal rate per foot of such frontage; provided, that in case of a corner lot, used as a single lot, no assessment shall be made against the long side of the lot abutting on the intersecting streets for any part of the frontage of such longer side of the lot except that portion in excess of 150 feet if the lot is in a residential section of the City, or in excess of 100 feet if the lot is in a business section of the City, and in such case the portion of the cost as would otherwise be assessed against the lot shall be borne by the City; provided further, that if a water or sanitary sewer main in excess of eight inches in size or a storm sewer main in excess of thirty inches in size is laid in the portion of the street or streets, then the cost of the water or sanitary sewer main in excess of the cost of an eight-inch main and the cost of the storm sewer main in excess of a thirty-inch main shall be borne by the City, provided further, that if the resolution ordered the construction of any septic tank or disposal plant, no part of the cost of the same shall be specially assessed; provided further, that if the resolution ordered the construction of any pumping station, force main or sanitary sewer outfall, the cost thereof may be assessed against the lots and parcels of land abutting on the street or streets, or parts thereof, according to their respective frontages thereon (i.e., the entire frontage benefited by such pumping station, force main or sanitary sewer outfall) by an equal rate per front foot of such frontage; provided, however, in the case of a corner lot, used as a single lot, where there is a sewer already laid on the intersecting street on which the lot abuts and by which the lot is or can be served, no assessment shall be made against the lot for the costs of any pumping station, force main or sanitary sewer outfall incident to the second sewer for any part of the frontage of the lot except that portion in excess of 150 feet if the lot is in a residential section, or in excess of 100 feet if the lot is in a business section, and in such case the portion of the cost as would otherwise be assessed against the lot shall be borne by the City. Nothing contained herein shall be construed to limit the right of the City to contract with any property owner or owners for the construction of any pumping station, outfall, septic tank or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract;

(d) Water and Sewer Laterals. The entire cost of each water and sewer lateral required to be laid by the owner of the property for or in connection with which such lateral is laid, but laid by the City after default by the property owner in making the same as hereinbefore provided, shall be specially charged against the particular lot or parcel of land for or in connection with which it was made;

(e) Water Mains and Sewers and Laterals; Flat Rate Assessment. In lieu of assessing each water and sanitary sewer improvement project on the basis of the cost of that particular project, the City Council shall have authority to establish flat rates per frontage foot for the assessment of property abutting water and sewer improvement projects, based on the average cost of constructing 8-inch water mains and 8-inch sanitary sewer mains in the City, and shall also have authority to establish flat rates for the assessment of property abutting the installation of water and sanitary sewer laterals, based on the average cost of installing such laterals in the City. The Council may then assess property abutting water and sanitary sewer improvement projects on the basis of the flat rates so established, subject to the right of any nonpetitioning

property owner to have the assessment against his property adjusted as provided by law upon a showing that his property has not been benefited to the extent of the assessment;

(f) Grass plots. The entire cost of grading or otherwise improving, or of planting, the grass plots in any street or part thereof, shall be assessed against the lots and parcels of land abutting on the street or part thereof wherein or whereon such improvements are made by an equal rate per front foot of such frontage; provided, that this subsection shall be construed to mean that when a grass plot in any street is graded or planted or otherwise improved, the cost thereof shall be assessed against all of the property abutting on the street within the block where such grass plot is located;

(g) Lighting improvements. The cost of any lighting improvement, such cost being determined as provided in subsection thirteen of this section, shall be specially assessed against the lots and parcels of land abutting directly on the street or streets, or part thereof, where such improvement is made, according to their respective frontage thereon by an equal rate per foot of such frontage;

(h) Water front improvements. The cost of any water front improvement shall be specially assessed against the lots and parcels of land abutting on the improvement according to their respective frontages thereon by an equal rate per foot of such frontage.

(i) In addition to the bases for making assessments for the cost of improvements specified above in paragraphs (a) through (h) of this subdivision, the city council may alternatively, or in conjunction, make assessments on the following bases:

- (1) The area of land served, or subject to being served, by the improvement, at an equal rate per unit of area.
- (2) The value added to the land served by the improvement, or subject to being served by it, being the difference between the appraised value of the land without improvements as shown on the tax records of the county, and the appraised value of the land with improvements according to the appraisal standards and rules adopted by the county at its last revaluation, at an equal rate per dollar of value added.
- (3) The number of lots served, or subject to being served, where the project involves extension of an existing system to a residential or commercial subdivision, at an equal rate per lot.
- (4) A combination of two or more of these alternative bases, which may also be combined with the specific assessment basis listed above in paragraphs (a) through (h) of this subdivision, for each class of improvement.
Whenever the basis selected for assessment is either area or value added, the city council may provide for the laying out of benefit zones according to the distance of benefited property from the improvement being undertaken, and may establish differing rates of assessment to apply uniformly throughout each benefit zone. For each improvement, the city council shall endeavor to establish an assessment method from among the bases set out in this section that will most accurately assess each lot or parcel of land according to the benefit conferred upon it by the improvement."

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-95

S.B. 900

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF SURF CITY.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Surf City are reduced by removing three tracts totaling approximately 49.02 acres annexed by the Town Council of the Town of Surf City on May 2, 2006, as recorded with the Secretary of State as Ordinance 2006-05-02-2.

SECTION 2. This act becomes effective June 30, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-96

S.B. 901

AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS FOR THE TOWN OF OCEAN ISLE BEACH.

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 Belmont, 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, Apex, Ayden, Benson, Bladenboro, Bridgeton, 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, Huntersville, Jamestown, Kenansville, Kenly, Knightdale, Landis, Leland, Lillington, Louisburg, Maggie Valley, Maiden, Mayodan, Middlesex, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Ocean Isle Beach, Pembroke, Pine Level, Princeton, Ranlo, Richlands, 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. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-97

H.B. 945

AN ACT TO ANNEX TO THE CITY OF MARION A SECTION OF RIGHT-OF-WAY OF US HIGHWAY 70 WEST WHERE A SIDEWALK TO BE MAINTAINED BY THE CITY IS TO BE CONSTRUCTED.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Marion are increased by adding the following described area:

BEGINNING at a point in the southwestern corner of Lot 9673 Block 64 on the McDowell County Tax Map 0792.00; thence following the northern boundary of US Highway 70 in a southwesterly direction 1250 feet to a point at the southeastern corner of Lot 1497 Block 53 on the McDowell County Tax Map 0792.00; thence in a straight southeasterly direction 100 feet to a point on the southern boundary of US Highway 70; thence following the southern boundary of US Highway 70 in a northeasterly direction 1250 feet to a point; thence in a straight northwesterly direction 100 feet to the point of BEGINNING.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-98

H.B. 963

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF COLUMBIA.

The General Assembly of North Carolina enacts:

SECTION 1. The property described in Section 1 of S.L. 2007-140 is removed from the corporate limits of the Town of Columbia.

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

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-99

H.B. 987

AN ACT TO ALLOW PERSONS WHO WORK IN WAKE COUNTY TO BE ELIGIBLE FOR MEMBERSHIP ON THE BOARD OF TRUSTEES OF WAKE TECHNICAL COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-12(b) reads as rewritten:

"(b) All trustees shall be residents ~~of~~ of, or have full-time employment in, the administrative area of the institution for which they are selected or of counties contiguous thereto with the exception of members provided for in G.S. 115D-12(a), Group Four."

SECTION 2. This act applies only to Wake Technical Community College.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-100

H.B. 991

AN ACT TO POSTPONE THE EFFECTIVE DATE OF CHANGES MADE TO THE JACKSON COUNTY OCCUPANCY TAX DURING THE 2011 REGULAR SESSION OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of S.L. 2011-170 reads as rewritten:

"SECTION 7. Part II and Section 5 of this act become effective January 1, 2013. This 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 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-101

H.B. 1029

AN ACT TO REMOVE THE REQUIREMENT THAT THE TOWN MANAGER OF MAYODAN BE A RESIDENT OF THAT TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5.1 of the Charter of the Town of Mayodan, being Chapter 501 of the 1973 Session Laws, as amended by S.L. 2000-34, reads as rewritten:

"Sec. 5.1. Appointment; Compensation. The Town Council shall appoint an officer whose title shall be Town Manager and who shall be the head of the administrative branch of the Town government. The Town Manager shall be chosen by the Council solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or knowledge of, accepted practice in respect to the duties of his office as hereinafter prescribed. ~~At the time of his appointment he~~ The Town Manager need not be a resident of the ~~Town, but shall reside within five miles of the Town limits during his tenure of office.~~ Town. No person elected as Mayor or as a member of the Council shall be eligible for appointment as Town Manager until one year shall have elapsed following the expiration of the term for which he was elected. The Town Manager shall serve at the pleasure of the Council and shall receive such salary as the Council shall fix."

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-102

H.B. 1041

AN ACT TO EXCHANGE CERTAIN DESCRIBED TRACTS OF LAND BETWEEN THE CITY OF ARCHDALE AND THE CITY OF HIGH POINT.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Archdale and added to the corporate limits of the City of High Point:

TRACT 1

BEGINNING at a point on the northwest property corner of Guilford County Tax Parcel 0158327, said corner being also the eastern right-of-way of Baker Road; thence in a southerly direction for approximately 447 feet along the eastern right-of-way line of Baker Road to the southwestern property corner of Guilford County Tax Parcel 0158330; thence in a westerly direction across the approximately 50-foot right-of-way of Baker Road to a point on the western right-of-way line, said point being also the southeast property corner of Guilford County Tax Parcel 0158060; thence continuing in a westerly direction for approximately 777 feet along the southern property line of said Tax Parcel 0158060 to its southwest property corner, said point being also a corner of Guilford County Tax Parcel 0200547; thence in a northerly direction for approximately 235 feet, said point being also the southwest corner of Guilford County Tax Parcel 0200543; thence in an easterly direction for approximately 567

feet along the northern property line of said Tax Parcel 0158060 to the southwest property corner of Guilford County Tax Parcel 0158067, said point being also the southeast property corner of Guilford County Tax Parcel 0158064; thence in a northerly direction for a distance of approximately 221 feet along the western property lines of Guilford County Tax Parcels 0158067, 0158066, and 0158065 to the northwest property corner of said Tax Parcel 0158065, said point being also a point on the southern right-of-way of Weaver Avenue; thence in an easterly direction for a distance of approximately 24 feet along the southern right-of-way of Weaver Avenue, thence in a northerly direction across the approximately 50-foot right-of-way of Weaver Avenue to a point on its northern right-of-way line, said point being also the southwest property corner of Guilford County Tax Parcel 0158063; thence continuing in a northerly direction for a distance of approximately 66 feet along the western property line of said Tax Parcel 0158063 to its northwest property corner; thence in an easterly direction for a distance of approximately 162 feet along the northern property line of said Tax Parcel 0158063, said point being also a point on the western right-of-way line of Baker Road; thence in a southerly direction for approximately 62 feet along the western right-of-way line of Baker Road, said point being also the southwest property corner of said Tax Parcel 0158063; thence continuing in a southerly direction across the approximately 50-foot right-of-way of Weaver Avenue to the northeast property corner of Guilford County Tax Parcel 0158065; thence in an easterly direction across the approximately 50-foot right-of-way of Baker Road to the northwest property corner of Guilford County Tax Parcel 0158327 and the END.

TRACT 2

BEGINNING at a point on the northwest property corner of Guilford County Tax Parcel 0158079; thence in an easterly direction for approximately 209 feet along the northern property line of said Tax Parcel 0158079 to its northeastern property corner, said corner being also a point on the western right-of-way line of Baker Road; thence continuing in an easterly direction across the approximately 50-foot right-of-way of Baker Road to a point on its eastern right-of-way line, said point being also a point on the western property line of Guilford County Tax Parcel 0158392; thence in a southerly direction for approximately 429 feet along the western property lines of Guilford County Tax Parcels 0158392, 0158393, 0158394, and 0158407; thence in a northwesterly direction across the approximately 50-foot right-of-way of Baker Road to a point on its western right-of-way line, said point being also the southeastern property corner of Guilford County Tax Parcel 0158076; thence continuing in a northwesterly direction for approximately 204 feet along the southern property line of said Tax Parcel 0158076 to its southwest property corner; thence in a northerly direction for approximately 383 feet along the western property lines of Guilford County Tax Parcels 0158076, 0158078, and 0158079, said point being also the northwest property corner of said Tax Parcel 0158079 and the END.

SECTION 2. The following described property is removed from the corporate limits of the City of High Point and added to the corporate limits of the City of Archdale:

BEGINNING at an existing iron pipe, said point located on the Eastern right-of-way of Kersey Valley Road (S.R. 1154) and North 12 Deg. 17 Min. 31 Sec. East, 259.01 feet from North Carolina Grid monument "HEN"; thence from said point of **BEGINNING** with the Southern line of Lot 1, W. W. Paige Heirs per Plat Book 108 Page 37, South 85 Deg. 31 Min. 42 Sec. East, 404.13 feet to an existing iron pipe; thence with the Southern line of Lot 2, W. W. Paige Heirs as recorded in Plat Book 66 Page 121, South 85 Deg. 30 Min. 34 Sec. East, 523.85 feet to an existing iron pipe; thence with the Southern line of Lot 3, W. W. Paige Heirs as recorded in Plat Book 68 Page 16, South 85 Deg. 30 Min. 42 Sec. East, 465.12 feet to an existing iron pipe, the Southeast corner of said Lot 3 in the West line of Robert L. Conner and wife, Juanita D. Conner as recorded in Deed Book 4309 Page 1020; thence with West line of the Conner property South 06 Deg. 02 Min. 28 Sec. West, 104.36 feet to a right of monument on the Northern right-of-way of Interstate Highway 85; thence with the right-of-way of Interstate Highway 85 the following 3 courses and distances; South 57 Deg. 45 Min. 09 Sec. West, 301.85 feet to a right-of-way monument; thence South 59 Deg. 38 Min. 49 Sec. West,

341.25 feet to a right-of-way monument; thence South 60 Deg. 49 Min. 21 Sec. West, 152.30 feet to a point; thence leaving the right-of-way of Interstate Highway 85, North 29 Deg. 10 Min. 39 Sec. West, 137.71 feet to a point; thence North 09 Deg. 11 Min. 30 Sec. East, 150.61 feet to a point; thence with a curve to the right having a radius of 100.00 feet, an arc of 52.23 feet and a chord of South 71 Deg. 01 Min. 26 Sec. East, 51.64 feet to a point; thence with a curve to the left having a radius of 50.00 feet and arc of 209.31 feet and a chord of North 04 Deg. 00 Min. 46 Sec. East, 86.67 feet to a point; thence with a curve to the right having a radius of 100.00 feet and arc of 52.23 feet and a chord of South 79 Deg. 02 Min. 58 Sec. West, 51.64 feet to a point; thence North 85 Deg. 59 Min. 14 Sec. West, 129.26 feet to a point; thence with a curve to the right having a radius of 420.00 feet and arc of 52.55 feet and a chord of North 82 Deg. 24 Min. 10 Sec. West, 52.51 feet to a point; thence North 78 Deg. 49 Min. 07 Sec. West, 206.97 feet to a point; thence with a curve to the left having a radius of 430.00 feet and arc of 62.91 feet and a chord of North 83 Deg. 00 Min. 36 Sec. West, 62.86 feet to a point; thence North 87 Deg. 12 Min. 05 Sec. West, 220.69 feet to a point on the East right-of-way of Kersey Valley Road; thence with the East right-of-way of Kersey Valley Road North 02 Deg. 47 Min. 55 Sec. East, 217.43 feet to the point and place of BEGINNING. Containing 9.09 acres more or less per a map by Jamestown Engineering Group, Inc., entitled Annexation Map for the City of High Point and designated as Job No. 99038.

SECTION 3. This act has no effect upon the validity of any liens of the City of Archdale or the City of High Point for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Archdale or the City of High Point, as appropriate.

SECTION 4. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-103

H.B. 1050

AN ACT TO EXERCISE THE POWER OF THE GENERAL ASSEMBLY UNDER SECTION 1 OF ARTICLE VII OF THE NORTH CAROLINA CONSTITUTION TO FIX THE BOUNDARIES OF CITIES AND GIVE SUCH POWERS TO CITIES AS IT DEEMS ADVISABLE BY REPEALING SPECIFIED INVOLUNTARY ANNEXATION ORDINANCES OF THE TOWN OF ELIZABETHTOWN RELATING TO THE INDUSTRIAL PARK AREA, AND BY PROHIBITING MUNICIPAL INITIATION OF ANY PROCEDURE TO INVOLUNTARILY ANNEX THOSE AREAS FOR TWELVE YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Repeal annexation ordinances. – All annexation ordinances described in Section 3 of this act are repealed as of the effective date of this act.

SECTION 2. Twelve-year prohibition on involuntary annexation. – All areas affected by the annexation ordinances described in Section 3 of this act shall not be subject to any annexation proceeding, other than a voluntary annexation under Part 1 or Part 4 of Article 4A of Chapter 160A of the General Statutes, or local act of the General Assembly, for a period of 12 years from and after the effective date of this act. After the 12-year period, the area may be subject to annexation in accordance with State law effective at that time.

SECTION 3. Repealed involuntary annexation ordinances. –

- (1) Elizabethtown Annexation Ordinance 2011-04 (Area A) adopted June 6, 2011.
- (2) Elizabethtown Annexation Ordinance 2011-05 (Area B) adopted June 6, 2011.

- (3) Elizabethtown Annexation Ordinance 2011-06 (Area C) adopted June 6, 2011.
- (4) Elizabethtown Annexation Ordinance 2011-07 (Area D) adopted June 6, 2011.

SECTION 4. Severability. – 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 from and after June 29, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-104

H.B. 1051

AN ACT TO EXERCISE THE POWER OF THE GENERAL ASSEMBLY UNDER SECTION 1 OF ARTICLE VII OF THE NORTH CAROLINA CONSTITUTION TO FIX THE BOUNDARIES OF CITIES AND GIVE SUCH POWERS TO CITIES AS IT DEEMS ADVISABLE BY REPEALING SPECIFIED INVOLUNTARY ANNEXATION ORDINANCES OF THE TOWN OF ELIZABETHTOWN RELATING TO THE HAYFIELDS AREA, AND BY PROHIBITING MUNICIPAL INITIATION OF ANY PROCEDURE TO INVOLUNTARILY ANNEX THOSE AREAS FOR TWELVE YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Repeal annexation ordinances. – All annexation ordinances described in Section 3 of this act are repealed as of the effective date of this act.

SECTION 2. Twelve-year prohibition on involuntary annexation. – All areas affected by the annexation ordinances described in Section 3 of this act shall not be subject to any annexation proceeding, other than a voluntary annexation under Part 1 or Part 4 of Article 4A of Chapter 160A of the General Statutes, or local act of the General Assembly, for a period of 12 years from and after the effective date of this act. After the 12-year period, the area may be subject to annexation in accordance with State law effective at that time.

SECTION 3. Repealed involuntary annexation ordinances. –

- (1) Elizabethtown Annexation Ordinance 2011-09 (Area J) adopted June 6, 2011.
- (2) Elizabethtown Annexation Ordinance 2011-10 (Area N) adopted June 6, 2011.
- (3) Elizabethtown Annexation Ordinance 2011-11 (Area Q) adopted June 6, 2011.

SECTION 4. Severability. – 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 from and after June 29, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-105

H.B. 1059

AN ACT TO ALLOW THE CITY OF ASHEBORO TO TOW MOTOR VEHICLES IMPEDING THE OPERATION OF THE DOWNTOWN FARMERS' MARKET.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-302 reads as rewritten:

"§ **160A-302. Off-street parking facilities.**

(a) A city shall have authority to own, acquire, establish, regulate, operate, and control off-street parking lots, parking garages, and other facilities for parking motor vehicles, and to make a charge for the use of such facilities.

(b) In a city-owned parking lot that is clearly designated as such by a sign no smaller than 24 inches by 24 inches prominently displayed at the entrance thereto, any motor vehicle, as defined in G.S.20-4.01, parked in violation of a city ordinance adopted pursuant to this section may be removed from such lot to a place of storage, and the registered owner of that motor vehicle shall become liable for removal and storage charges. Any person who removes a motor vehicle pursuant to this section shall not be held liable for damages for the removal of the vehicle to the owner, lienholder, or other person legally entitled to possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages. The towing of a motor vehicle for violation of an ordinance adopted under the authority granted by this section shall be initiated only at the request of a law enforcement officer employed by the city. The person who actually tows the designated motor vehicle is responsible for the collection of towing and storage fees. All provisions of Article 7A of Chapter 20 of the General Statutes shall apply."

SECTION 2. This act applies to the City of Asheboro only and only to its regulation of the city-owned parking lot that is utilized as part of the Downtown Farmers' Market facility.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-106

H.B. 1071

AN ACT TO PROVIDE FOR THE DATE FOR THE ORGANIZATIONAL MEETING OF THE WAKE COUNTY BOARD OF EDUCATION TO BE GOVERNED BY GENERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of Chapter 717 of the Session Laws of 1975, as amended by Chapter 952 of the Session Laws of 1983 and S.L. 2011-138, reads as rewritten:

"~~Sec. 9. In June or July of each year, the~~ The Wake County Board of Education, acting jointly and by a majority vote of all members present, shall elect a chair to preside at meetings and a vice-chair to preside at meetings in the absence of the chair; and the chair and vice-chair shall have a vote on all matters considered by the Wake County Board of Education. All vacancies occurring in the membership of the Wake County Board of Education by reason of death, resignation, removal of residence from the district from which elected, or for any cause whatsoever, shall be filled by the remaining members of said board by appointing a member from the voting district creating the vacancy for the unexpired term. The Wake County Board of Education shall have all power and authority as a Board of Education as herein conferred and as are conferred by the General Statutes of North Carolina on boards of education in general."

SECTION 2. This act is effective December 1, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-107

H.B. 1087

AN ACT TO AUTHORIZE THE TOWN OF FONTANA DAM TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

TOWN OF FONTANA DAM OCCUPANCY TAX

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

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

SECTION 1.(c) Distribution and Use of Tax Revenue. – The Town of Fontana Dam shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Fontana Dam 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 Fontana Dam and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the 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 Fontana Dam 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.(d) Tourism Development Authority. – Appointment and Membership. – When the Town Council adopts a resolution levying a room occupancy tax under this section, it shall also adopt a resolution creating the Fontana Dam 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 Fontana Dam shall be the ex officio finance officer of the Authority.

SECTION 1.(e) Duties. – The Authority shall expend the net proceeds of the tax levied under this section for the purposes provided in subsection (c) of this section. 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.(f) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Fontana Dam 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) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas, Dobson, Elkin, Fontana Dam, Franklin, Grover, Hillsborough, Jonesville, Kenly, Kure Beach, Leland, McAdenville, Mocksville, Mooresville, Murfreesboro, North Topsail Beach, Pembroke, Pilot Mountain, Ranlo, Selma, Smithfield, St. Pauls, Swansboro, 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 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-108

H.B. 1090

AN ACT TO ESTABLISH THE REMAINING NINE PERCENT OF THE COMMON BOUNDARY BETWEEN ALAMANCE COUNTY AND ORANGE COUNTY NOT ADDRESSED BY SESSION LAW 2011-88 AND AS AUTHORIZED BY THE GENERAL ASSEMBLY BY SESSION LAW 2010-61 ENABLING THE CHANGES IN THE HISTORIC ORANGE COUNTY-ALAMANCE COUNTY BOUNDARY LINE AS DESCRIBED IN THE 1849 SURVEY ESTABLISHING ALAMANCE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. The historic boundary line forming Alamance County from Orange County was described and surveyed in 1849. In the subsequent 160 years, this line became uncertain, resulting in unintentional modifications to the boundary line affecting taxation, school attendance, zoning maps, and elections, within and among Alamance County, Orange County, and the Town of Mebane, North Carolina. Pursuant to G.S. 153A-18(a) entitled "Uncertain or Disputed Boundary", both county boards of commissioners passed resolutions (Alamance County, December 17, 2007 and Orange County, January 18, 2008) to request that North Carolina Geodetic Survey perform a preliminary resurvey and present a proposed map for consideration by both counties.

SECTION 2. In the 2011 session, the General Assembly, through S.L. 2011-88, ratified and adopted ninety-one percent (91%) of the boundary line between Alamance County and Orange County. Also in the 2011 session, the General Assembly, through S.L. 2011-87, authorized the boards of commissioners of Alamance County and Orange County to determine the most appropriate location for the remaining nine percent (9%) of the boundary line.

SECTION 3. The General Assembly recognizes the difficulties in addressing the issues associated with adopting a county boundary line and authorizes Alamance County and Orange County to maintain the current taxing, elections, education and any other recognized government functions in place in the transition areas affected by this act, if so needed, until July 1, 2013.

SECTION 4.(a) Except as otherwise provided in this act, on and after January 1, 2013, all papers, documents, and instruments required or permitted to be filed or registered, involving residents and property in areas affected by the resurvey of the boundary line, which previously may have been recorded in the adjoining counties, shall be recorded in the county to which the property has been reassigned by this act.

SECTION 4.(b) On and after January 1, 2013, all real and personal property in areas affected by the resurvey of the boundary line that was subject to ad valorem taxation on January 1, 2013, shall be subject to ad valorem taxes in the county to which the property is reassigned for the fiscal year beginning July 1, 2013, to the same extent as it would have been had it been correctly recognized by the tax departments of each county on March 1, 2013, except as hereinafter provided with respect to classified registered motor vehicles. On September 1, 2012, the adjoining county tax administrators shall commence the transfer to the respective county tax assessors the ad valorem tax listings and valuations for all real and personal property subject to ad valorem taxation in areas affected by the resurvey of the boundary line, except classified motor vehicles which were registered in the adjoining counties prior to July 1, 2012. For the fiscal year that begins July 1, 2012, all real and personal property in areas affected by the resurvey of the boundary line, which was subject to ad valorem taxation in that area on January 1, 2013, shall be assessed and taxed as follows:

- (1) The ad valorem property taxes assessed on all classified registered motor vehicles registered or listed in adjoining counties between January 1, 2012, and March 1, 2013, shall be collected by the appropriate adjoining county tax collector, and all such taxes shall be retained by that adjoining county. The taxes on all classified registered motor vehicles registered after March 1, 2013, shall be assessed and collected by the county tax department in the county to which the real property wherein the classified registered motor vehicles are situated has been reassigned.
- (2) The values established by the particular adjoining county tax administrator on all personal property other than classified registered motor vehicles shall be used by each county tax assessor without adjustment in computing taxes due for the fiscal year beginning July 1, 2013. All such taxes shall be assessed and collected by the appropriate county tax department.
- (3) For the interim time period between the reassignment of properties into their respective counties and until such time as the next regularly scheduled revaluation period, Alamance County and Orange County may select either of two methods of valuating the property reassigned into their respective counties by this act. The selection of either method by a county shall not give any individual or entity grounds for challenging such temporary valuation. Such methods are delineated as follows:
 - a. The values established by the adjoining county tax administrators on all real property formerly taxed in their county shall be adjusted by the appropriate county tax assessor by applying the difference between one hundred percent (100%) of such values and the appropriate county median ratio, as established by the Sales

Assessment Ratio Study compiled by the North Carolina Department of Revenue as of January 1, 2009. The taxes determined by applying this method will be collected and retained by the appropriate county tax collector. The value of such property shall then be revalued according to the regularly scheduled revaluation period for each county.

- b. The values established by the adjoining county tax administrators on all real property formerly taxed in their county shall be adopted by the appropriate county tax assessor upon the transition of property to the adjoining county. The valuation of such property shall then be revalued according to the regularly scheduled revaluation period for each county.
- (4) Beginning January 1, 2014, all property in areas affected by the resurvey of the boundary line that is subject to ad valorem taxation shall be listed, assessed, and taxed by the appropriate county tax administrator in the same manner as is prescribed by law for all other property located within each county.
- (5) The final tax values of property subject to ad valorem taxation in areas affected by the resurvey of the boundary line as of January 1, 2014, shall be determined by the adjoining county tax administrator. Appeals to the North Carolina Property Tax Commission or to the courts by property owners of properties affected by the boundary line change shall be defended by both counties, and both counties shall be responsible for the counties' costs and expenses, including attorneys' fees, incurred in connection with such appeals.
- (6) Any unpaid taxes or tax liens for the fiscal year ending June 30, 2013, or for prior years on property subject to taxation in areas affected by the resurvey of the boundary line shall continue to be valid and enforceable by the respective adjoining county, including the foreclosure remedies provided for in G.S. 105-374 and G.S. 105-375, and the remedies of attachment and garnishment provided for in G.S. 105-366 through G.S. 105-368. The Alamance County and Orange County tax administrators shall supply one another with a list of unpaid taxes for properties in areas of the boundary line affected by the resurveys for the tax year 2012 on or before July 1, 2013. Any such taxes collected by either county shall be promptly paid to the appropriate adjoining county including accrued interest. The provisions of G.S. 105-352(d) shall not apply to (i) those areas in adjoining county previously taxed by either county outside the areas affected by the resurvey of the boundary line, that shall forthwith be properly listed and taxed in the county to which they have been reassigned by this act; and (ii) those areas within each county that were in the past improperly listed and taxed by the adjoining counties due to uncertainty as to the exact location of the true historic Alamance County-Orange County boundary line.

SECTION 4.(c) No cause of action, including criminal actions, involving persons or property in areas affected by the resurvey of the boundary line that is pending on July 1, 2013, shall be abated, and such actions shall continue in the appropriate adjoining county. In no event shall a defense to a criminal act be maintained where such defense alleges a lack of jurisdiction due to any act or failure to act related to the adjustment of the boundary line by this act, regardless of when such criminal act is alleged to have occurred.

SECTION 4.(d) The board of elections of each adjoining county shall, effective July 1, 2013, transfer the voter registration records pertaining to persons residing in areas affected by the resurvey of the boundary line and located in either county to the adjoining county's board of elections, and thereafter the registered voters so transferred shall be validly

registered to vote in that adjoining county. Persons in areas affected by the resurvey of the boundary line shall continue to be in the same State House, State Senate, and United States House of Representatives Districts as they were prior to the resurvey.

SECTION 4.(e) The Jury Commission of each adjoining county shall revise its jury lists to add to or eliminate therefrom those persons subject to jury duty who reside in areas affected by the resurvey of the boundary line, said revised jury lists to be effective July 1, 2013.

SECTION 5.(a) Any properties affected by S.L. 2010-61 or this act and that are subject to taxation under G.S. 105-274 and that were taxed by both the Alamance County and Orange County taxing authorities on or after January 1, 2007, are hereby granted the following relief:

- (1) Property owners of any such dually taxed properties may, pursuant to the terms of G.S. 105-381, demand refund and/or release of taxes paid to the county from which their property, or portion thereof, was transitioned.
- (2) Any claim for relief pursuant to this section and under the terms of G.S. 105-381 may be made for taxes assessed January 1, 2007, through December 31, 2012. All such claims for relief must be made in writing to the county from which the affected property was transitioned on or before February 28, 2013. Should a claim for relief pursuant to this section not be made by February 28, 2013, such claim is waived and no further relief shall be granted pursuant to this or any other act. Alamance County and Orange County shall not grant refunds or releases pursuant to this section for any claims made after February 28, 2013, and are released from all liability, and no court action shall be maintained for any such claims made for any act or failure to act pursuant to this section.

SECTION 5.(b) The provisions of this section shall apply only to properties transitioned or reassigned from one county to the other, in whole or in part, by the resurveys of individual qualifying properties pursuant to S.L. 2010-61 and this act.

SECTION 5.(c) For purposes of this section only, the term "property owner" shall include any builder or developer that paid property taxes on real property to both counties and subsequently sold said property or that, as part of an escrow agreement in which the buyer of such property paid taxes to one county and the builder or developer who sold the property, paid taxes on the same piece of property to the adjoining county.

SECTION 5.(d) The taxing authorities of Alamance County and Orange County shall notify property owners affected by this section of the terms of this section within 30 days of this act becoming law. Such notice shall be by United States mail at the mailing address to which any tax bills were previously submitted. No other notice is or shall be required.

SECTION 6. Any child who was a resident of any area reassigned by this act on its date of ratification and who was a student in the Orange or Alamance school system during the 2011-2012 school year, and the siblings of any such person, may attend school in the same school system attended in the 2011-2012 school year without necessity of a release or payment of tuition. Any such student, while attending the Orange County school system, shall be considered a resident of Orange County for all public school purposes, including transportation, athletics, and funding formulas. Any such student, while attending the Alamance County School system, shall be considered a resident of Alamance County for all public school purposes, including transportation, athletics, and funding formulas. Notice must be given to all affected school systems by the parent or guardian in order to exercise the privilege granted by this section.

SECTION 7. The establishment of a county boundary line is, pursuant to Section 1 of Article VII of the North Carolina Constitution, the sole responsibility of the General Assembly. Further, it is vital to the State of North Carolina and all affected local governments that county boundary lines be fixed and any uncertainty as to the location of county boundary lines be resolved. For this reason and in the interest of justice, neither Alamance County nor Orange County, nor any agent, employee, or appointed or elected official thereof, shall be

liable to any individual, group, organization, for-profit or not-for-profit business entity of any kind, governmental entity or agency of any type or kind for any damages, costs, fees, or fines, and or court action shall be maintained against said counties, officials, employees, and agents for any recommendation, act, failure to act, or conduct related to S. L. 2010-61, S.L. 2011-88, or this act and/or the adoption of a fixed boundary line separating the two counties. Except as set out in Section 5 of this act, and effective upon this act becoming law, Alamance County and Orange County, their officials, employees, and agents are released from all liability for any claims made, and no court action shall be maintained against said officials, employees, and agents for any act or failure to act pursuant to the terms of this act, S.L. 2011-88, or S.L. 2010-61, and no further relief shall be granted or cause of action sustained except as provided herein.

SECTION 8. Should any provision of S.L. 2010-61, as amended by S.L. 2011-88, conflict with any provision of this act, the provisions of this act shall control. Should any line marking the area of the nine percent (9%) reflected in the surveys referenced herein conflict with any line shown on the surveys describing the area of the ninety-one percent (91%), the surveys marking the area of the nine percent (9%) shall control.

SECTION 9. Pursuant to Section 1 of Article VII of the North Carolina Constitution, any boundary line between Alamance County and Orange County previously surveyed, recognized, adopted, described, utilized, or ratified, save and except the ninety-one percent (91%) of the boundary line adopted by S.L. 2011-88, is modified as set forth herein upon ratification of this act.

SECTION 10. Pursuant to Section 1 of Article VII of the North Carolina Constitution, the official boundary line regarding the remaining nine percent (9%) of the line separating Alamance County and Orange County, as recommended by the Alamance County Board of Commissioners at its meeting of December 6, 2010, and the Orange County Board of Commissioners at its meeting of December 14, 2010, is hereby formally recognized and adopted by the General Assembly.

SECTION 11. Upon adoption, the survey plats reflecting the boundary line shall be filed with the Alamance County Register of Deeds, with the Orange County Register of Deeds, and in the office of the Secretary of State as provided in G.S. 153A-18(a).

SECTION 12. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-109

H.B. 1106

AN ACT TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE CORPORATE LIMITS OF THE TOWN OF APEX.

The General Assembly of North Carolina enacts:

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

BEING all that tract of land containing 0.208 acres more or less, located in White Oak Township, Wake County, and bounded by lands owned by and/or in possession of persons as follows: on the north by the right-of-way (allowing 65 feet) of Beaver Creek Commons Drive Extension, on the northwest by the lands of Grayson G. Kelley, and wife Blaine Brown Kelley, on the northwest, northeast, southeast and south by the NC-540 Corridor (right-of-way width varies) and Beaver Creek Commons Drive Extension and being more particularly described by courses based on North Carolina Grid Coordinate System North (NAD 83) and distances according to a survey entitled "Annexation Plat of Section 2-Beaver Creek Commons Drive Extension Right-of-Way for The Town of Apex" by McKim and Creed, Inc., dated March 26, 2012, last revised April 20, 2012 and being more particularly described as follows:

COMMENCING at NCGS Monument "JUNCTION 2", said monument having N.C. Grid (NAD 83) Coordinates N = 727,401.45 feet, E = 2,036,839.97 feet; thence as a tie line south 63 deg. 20 min. 35 sec. west 5400.73 feet to a computed point; said computed point being the POINT OF BEGINNING, said computed point also being within the right-of-way of the NC-540 Corridor; thence running as the southeastern right-of-way line (allowing 65 feet) of Beaver Creek Commons Drive Extension south 51 deg. 25 min. 18 sec. west 120.89 feet to a computed point, said computed point being in the southeastern right-of-way line (allowing 65 feet) of the Beaver Creek Commons Drive Extension, thence crossing the right-of-way (allowing 65 feet) of Beaver Creek Commons Drive Extension the following two calls: (1) north 81 deg. 37 min. 39 sec. west 75.05 feet to a computed point, and (2) north 38 deg. 34 min. 42 sec. west 10.16 feet to a computed point, said computed point being in a southeastern line of the Grayson G. Kelley, and wife Blaine Brown Kelley property, said computed point also being in the northwestern right-of-way line (allowing 65 feet) of the Beaver Creek Commons Drive Extension; thence with the northwestern right-of-way line (allowing 65 feet) of the Beaver Creek Commons Drive Extension and a southeastern line of the Grayson G. Kelley, and wife Blaine Brown Kelley property north 51 deg. 25 min. 18 sec. east 12.55 feet to a computed point, said computed point being a southeastern corner of the Grayson G. Kelley, and wife Blaine Brown Kelley property; thence continuing with the western right-of-way line (allowing 65 feet) of Beaver Creek Commons Drive Extension north 51 deg. 25 min. 18 sec. east 137.15 feet to a computed point; thence crossing the Beaver Creek Commons Drive Extension right-of-way (allowing 65 feet) south 57 deg. 36 min. 31 sec. east 68.76 feet to a computed point, the POINT OF BEGINNING.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-110

H.B. 1110

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTIES FROM THE CORPORATE LIMITS OF THE TOWN OF MATTHEWS AND ANNEX IT TO THE TOWN OF STALLINGS, BOTH AT THE REQUEST OF THE RESPECTIVE TOWN GOVERNING BOARDS.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Matthews are reduced by removing the following described property in Mecklenburg County:

<u>Address</u>	<u>Parcel ID</u>	<u>Legal Description Lot# Block Book Page</u>
2230 Community Park	21505210	18 M 51-649
2224 Community Park	21505207	19 M 6-62
2208 Community Park	21505208	20 M 6-62
2308 Community Park	21505205	17 M 51-649
2304 Community Park	21505204	16 M 6-62

Also removed from the corporate limits of the Town of Matthews is the part of the right-of-way of Community Park Drive that is bounded by the Mecklenburg/Union County line and by one or more of those five listed parcels.

SECTION 2. The corporate limits of the Town of Stallings are extended by adding the following described property in Mecklenburg County:

<u>Address</u>	<u>Parcel ID</u>	<u>Legal Description Lot# Block Book Page</u>
2230 Community Park	21505210	18 M 51-649
2224 Community Park	21505207	19 M 6-62
2208 Community Park	21505208	20 M 6-62
2308 Community Park	21505205	17 M 51-649
2304 Community Park	21505204	16 M 6-62

Also added to the corporate limits of the Town of Stallings is the part of the right-of-way of Community Park Drive that is bounded by the Mecklenburg/Union County line and by one or more of those five listed parcels.

SECTION 3. This act has no effect upon the validity of any liens of the Town of Matthews for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property were still within the corporate limits of the Town of Matthews.

SECTION 4. This act becomes effective June 30, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-111

H.B. 1122

AN ACT TO VALIDATE CERTAIN LEVIES AND COLLECTION OF FIRE DISTRICT TAXES IN MARTIN COUNTY AND TO ALLOW MARTIN COUNTY TO ABOLISH BY RESOLUTION ITS CHAPTER 69 FIRE PROTECTION DISTRICTS UPON ESTABLISHMENT OF FIRE PROTECTION SERVICE DISTRICTS UNDER CHAPTER 153A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. All collections of fire protection district revenues under Article 3A of Chapter 69 of the General Statutes by Martin County since 1956 are valid and lawful, without regard to which fire protection district (and corresponding fire tax rate) those revenues were collected from, and without regard to which fire department those revenues were allocated.

SECTION 2. Subject to the provisions of G.S. 105-378, the levies of fire protection district taxes by Martin County since 1956 that remain uncollected are valid and lawful, and the lien for such taxes remains, without regard to which fire protection district (and corresponding fire tax rate) those levies attached, and without regard to which fire department revenues (when collected) are to be allocated.

SECTION 3. Pending action by Martin County to establish fire protection service districts under Part 1 of Article 16 of Chapter 153A of the General Statutes, the boundaries of the fire protection districts in Martin County under Article 3A of Chapter 69 of the General Statutes are as defined by a district map prepared to delineate revised district boundaries and approved prior to July 1, 2012, by the Board of Commissioners of Martin County.

SECTION 4. Upon establishment of fire protection service districts in Martin County under Part 1 of Article 16 of Chapter 153A of the General Statutes with a limitation on the maximum rate under G.S. 153A-309.2, the Board of Commissioners of Martin County by resolution may abolish the corresponding fire protection districts in Martin County under Article 3A of Chapter 69 of the General Statutes as of the effective date of the creation of the new districts.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-112

H.B. 1123

AN ACT AMENDING THE ACT AUTHORIZING THE APPOINTMENT OF AN AUTHORITY TO CONTROL THE MANAGEMENT OF A MEMORIAL STADIUM TO BE ERECTED BY DURHAM COUNTY, TO INCREASE ITS MEMBERSHIP, AND TO AMEND ITS TERM LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 734 of the Session Laws of 1957 reads as rewritten:

"**Section 1.** The Board of Commissioners of Durham County may immediately after the ratification of this Act appoint an authority composed of ~~five (5)~~ seven members who shall be known as the Memorial Stadium Authority and who shall have the powers herein conferred and shall have the control of the management of the operation of the stadium after its completion.

Said authority shall operate said stadium in a proper, efficient, economical and businesslike manner to the end that the properties and facilities may effectively serve the public needs for which it was erected at the least cost and expense to Durham County.

~~One member of said authority shall be~~ Initially, the authority shall consist of one member appointed by the Board of Commissioners of Durham County for a period of one year; ~~one member~~ two members for a period of two years; one member for a period of three years; one member for a period of four years and one member for a period of five years. The seventh member of the authority is a member of the Board of Commissioners of Durham County appointed by that board to serve ex officio for an indefinite term until the earlier of when the member ceases to be a member of the board of commissioners or when replaced by the appointment of another member of the board of commissioners. The successor commissioner shall continue to serve in the capacity of that member's predecessor.

At the end of each term one member thereof shall be appointed by said Board of Commissioners each for a term of ~~five~~ four years. No member other than the ex officio member of the board of commissioners may serve more than eight consecutive years on the authority. In case any vacancies shall be created on said authority, the Board of Commissioners shall appoint a member to fill the unexpired term.

The members of the authority shall elect annually from their body a chairman, a vice chairman and a secretary and otherwise provide for the efficient management of its affairs; provided, however, the treasurer of the authority shall be the ~~treasurer~~ finance officer of Durham County.

All funds of the authority shall be kept by its treasurer in a separate bank account or accounts from other funds of Durham County, and shall be paid out only in accordance with procedures established by said authority.

The net proceeds from the operation of the stadium properties and facilities shall be used to apply on the payment of the interest and principal of the bonded indebtedness of Durham County incurred in connection with said stadium and shall not be used for any other purpose until said bonds, principal and interest have been paid, except as may be otherwise approved by the Board of Commissioners for other purposes of the authority. A quarterly operating statement of the authority shall be presented to the Board of Commissioners and an annual audited statement shall also be presented to said Board.

The authority shall appoint a manager for said stadium properties whose salary shall be approved by the Board of Commissioners. Such manager shall, in addition to other duties imposed upon him by the authority be responsible for the collection of rents or fees for the use of the properties and facilities of the stadium. The authority shall appoint such other personnel as it deems advisable.

The authority shall have full and complete control of said stadium properties and facilities; shall make such reasonable rules and regulations as it deems necessary for the proper operation

and maintenance of said properties and shall establish and collect rents, fees and charges for the use of said properties and facilities which said charges may include charges for concessions and for parking automobiles."

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-113

H.B. 1196

AN ACT TO PROVIDE A PROCESS FOR CONVEYING AN INTEREST IN REAL PROPERTY OWNED BY ALBEMARLE MENTAL HEALTH CENTER TO EAST CAROLINA BEHAVIORAL HEALTH.

Whereas, Albemarle Mental Health Center (AMHC), Developmental Disabilities and Substance Abuse Services, was a Local Management Entity and political subdivision of the State pursuant to G.S. 122C-116 covering 10 counties; and

Whereas, AMHC was dissolved under Chapter 122C of the General Statutes effective July 1, 2010; and

Whereas, AMHC owned real property in Camden, Currituck, and Perquimans Counties; and

Whereas, the real property was to have been conveyed to East Carolina Behavioral Health (ECBH) upon dissolution of AMHC; and

Whereas, proper provision was not made for the conveyance in the winding up of AMHC; and

Whereas, the General Assembly desires to create a process by which this conveyance may occur; and

Whereas, the catchment area of AMHC was Camden, Chowan, Currituck, Dare, Hyde, Martin, Pasquotank, Perquimans, Tyrrell, and Washington Counties; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services of the Department of Health and Human Services may wind up the affairs of the Albemarle Mental Health Center (AMHC), Developmental Disabilities and Substance Abuse Services by *entering into any necessary interlocal agreements and* conveying its interests in real property in Camden, Currituck, and Perquimans Counties to East Carolina Behavioral Health (ECBH) as provided in the consolidation agreement between AMHC, ECBH, and the 10 counties in the catchment area.

SECTION 2. This act applies in Camden, Currituck, and Perquimans Counties only.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-114

H.B. 1197

AN ACT TO AUTHORIZE STOKES COUNTY TO REQUIRE THE PAYMENT OF DELINQUENT PROPERTY TAXES BEFORE RECORDING DEEDS CONVEYING PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-31 reads as rewritten:

"§ 161-31. Tax certification.

(a) Tax Certification. – The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed. The county commissioners may describe the form the certification must take in its resolution.

(a1) Exception to Tax Certification. – If a board of county commissioners adopts a resolution pursuant to subsection (a) of this section, notwithstanding the resolution, the register of deeds shall accept without certification a deed submitted for registration under the supervision of a closing attorney and containing this statement on the deed: "This instrument prepared by: _____, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds."

(b) Applicability. – This section applies only to Alamance, Alexander, Anson, Beaufort, Bertie, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Catawba, Cherokee, Chowan, Clay, Cleveland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Gaston, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Montgomery, Nash, Northampton, Onslow, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Robeson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Wayne, Wilson, Yadkin, and Yancey Counties."

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-115**H.B. 1199**

AN ACT AUTHORIZING THE TOWN OF LAKE LURE TO CONVEY CERTAIN DESCRIBED PROPERTY BY GIFT, PRIVATE SALE, OR LONG-TERM LEASE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding the provisions of Article 12 of Chapter 160A of the General Statutes, the Town of Lake Lure may convey by gift, by private negotiation and sale, or by lease for a term of more than 10 years, with or without monetary consideration, under the terms and conditions it deems proper, any or all of its right, title, and interest in the following described property to The Challenge Foundation Properties of North Carolina, LLC, or CLASSICAL ACADEMIES CFA, INC., for the purpose of operating a public school, including a public charter school:

Beginning at a found 1" open top pipe, being the SE property corner of the Cane Creek Missionary Baptist Church property tax pin 1616957, with the NAD 83 coordinates of N:619030.64 E:1048324.49; thence N.02°50'43"E. a distance of 226.93' to a found 1" pipe being the NE corner of the said church property; thence a new line through the Town of Lake Lure property, pin 1641654 N.02°50'43"E. 406.3' to a point in the centerline of a stream passing a set #5 rebar with i.d. cap at 385.47'; thence with centerline of stream the next 8 calls N.77°42'08"E. a distance of 36.69'; thence N.88°31'48"E. a distance of 70.51'; thence S.66°22'32"E. a distance of 110.36'; thence N.88°38'41"E. a distance of 27.25'; thence N.79°38'55"E. a distance of 136.47'; thence N.75°18'35"E. a distance of 156.62'; thence N.65°51'02"E. a distance of 164.70'; thence N.43°37'41"E. a distance of 234.09'; thence continuing with 3 new lines through the said Town of Lake Lure property S.65°45'51"E. a distance of 459.85', passing a set #5 rebar with i.d. cap at 30.02'; thence S.44°45'47"E. a distance of 197.90'; thence S.26°41'42"E. a distance of 421.43' to a 1/2" iron pipe being a NW

corner of the Willard Buford property pin 1627106; thence along the western property line of said Buford property the next 2 calls S.03°42'18"W. a distance of 249.94' add to a found 3/4" pipe; thence S.03°43'51"W. a distance of 1218.44' to a set #5 rebar with i.d. cap in the northern 50' right-of-way of Island Creek Rd. (S.R. 1185); thence with the northern right-of-way of Island Creek Rd. the following 9 calls with a curve turning to the right with an arc length of 28.32', with a radius of 1042.80', with a chord bearing of S.53°57'22"W., with a chord length of 28.32'; thence S.55°43'28"W. a distance of 143.58'; thence with a curve turning to the left with an arc length of 96.89', with a radius of 1038.94', with a chord bearing of S.53°03'11"W., with a chord length of 96.85'; thence with a curve turning to the right with an arc length of 184.71', with a radius of 754.91', with a chord bearing of S.57°23'27"W., with a chord length of 184.25'; thence with a curve turning to the right with an arc length of 180.86', with a radius of 496.79', with a chord bearing of S.74°49'48"W., with a chord length of 179.86'; thence with a curve turning to the right with an arc length of 297.75', with a radius of 1729.66', with a chord bearing of N.89°48'33"W., with a chord length of 297.38'; thence with a curve turning to the right with an arc length of 123.87', with a radius of 175.00', with a chord bearing of N.64°36'00"W., with a chord length of 121.30'; thence N.44°19'20"W. a distance of 207.10'; thence with a curve turning to the left with an arc length of 254.65', with a radius of 335.12', with a chord bearing of N.66°05'28"W., with a chord length of 248.57'; to a point being a set #5 rebar with i.d. cap, located N.77°59'58"E. 733.83' from a found right-of-way monument; thence 5 new lines through the said Town of Lake Lure property N.17°12'18"E. a distance of 242.06' to a set #5 rebar with i.d. cap; thence N.47°08'09"W. a distance of 121.59' to a set #5 rebar with i.d. cap; thence N.12°24'16"E. a distance of 165.25' to a set #5 rebar with i.d. cap; thence N.76°09'17"W. a distance of 571.52' to a set #5 rebar with i.d. cap; thence S.13°18'15"W. a distance of 304.03' to a set #5 rebar with i.d. cap; thence N.80°47'35"W. a distance of 130.01' to a point in the NCDOT claimed eastern right-of-way of Highway 9 and being 5' from the eastern edge of pavement of NC Highway 9 passing a set #5 rebar with i.d. cap at 120.83'; thence along said Highway 9 right-of-way the next 3 calls N.09°31'25"E. a distance of 147.74'; thence with a curve turning to the left with an arc length of 382.18', with a radius of 955.00' with a chord bearing of N.01°56'27"W., with a chord length of 379.63'; thence N.13°24'19"W. a distance of 109.92'; thence leaving said NC Highway 9 right-of-way along the southern property line of said Baptist Church N.61°35'39"E. a distance of 636.12', passing a set #5 rebar with i.d. cap at 38.51' to the point of beginning, said parcel contains 80.96 acres area by coordinate computation.

Legal description of 80.96 acres located in Chimney Rock Township, Rutherford County, North Carolina; being a portion of the Town of Lake Lure Property as described in Deed Book 153, Page 356, also being a portion of Rutherford County, NC Tax PIN 1641654. The following Legal Description was taken from a plat of survey for the Lake Lure Classical Academy, dated April 10, 2012, prepared by WNC Professional Engineers & Surveyors, PLLC – Job #120305.

SECTION 1.(b) The Town of Lake Lure may, in its discretion, include in a document conveying all or any portion of the property described in subsection (a) of this section a reversionary clause which provides that if the property ceases to be used for public school purposes, the property shall revert back to the Town of Lake Lure.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-116

H.B. 1202

AN ACT TO DEANNEX FROM THE CITY OF ROANOKE RAPIDS A PARCEL PREVIOUSLY ANNEXED BY A LEGISLATIVE ANNEXATION AND AMENDING THE AUTHORIZING LEGISLATION FOR THE HALIFAX-NORTHAMPTON REGIONAL AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The following property, which was annexed to the City of Roanoke Rapids by S.L. 2005-9, is removed from the corporate limits of the City of Roanoke Rapids: Halifax County Tax Office Parcel ID 1201473.

SECTION 1.(b) The City of Roanoke Rapids may exercise all the powers granted by Article 19 of Chapter 160A of the General Statutes in the area removed from the corporate limits by Section 1 of this act.

SECTION 1.(c) This section becomes effective June 30, 2012.

SECTION 2.(a) Section 4(a)(1) of S.L. 1997-275, as amended by S.L. 1998-130, reads as rewritten:

"(a) The Airport Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

- (1) To purchase, acquire, establish, construct, own, own jointly with public and private parties, lease as lessee, mortgage, sell, lease as lessor, control, lease, equip, improve, maintain, operate, and regulate or otherwise dispose of lands, facilities, and improvements for the use, restoration, manufacture, or repair of airplanes and other aircrafts; to finance and refinance for public and private parties airport facilities and improvements which relate to, develop, or further airborne commerce and cargo and passenger traffic, including commercial, industrial, manufacturing, processing, transportation, distribution, storage, and aviation facilities and improvements; to secure any such financing or refinancing by all or any portion of their revenues, income, or assets or other available monies associated with any of their airport facilities and with the facilities and improvements to be financed or refinanced, and by foreclosable liens on all or any part of its properties associated with its airport facilities and with the facilities and improvements to be financed or refinanced, but in no event to create a debt secured by a pledge of the faith and credit of the State or any other public body in the State. ~~airports and landing fields for the use of airplanes and other aircraft within the limits of the County and for this purpose to purchase, improve, own, hold, lease, or operate real or personal property.~~ The Airport Authority may exercise these powers alone or in conjunction with the City of Roanoke Rapids, the County of Northampton, or the County of Halifax."

SECTION 2.(b) Section 4(a)(12) of S.L. 1997-275 is repealed.

SECTION 3. Except as provided herein, this act is effective when it becomes law. In the General Assembly read three times and ratified this the 28th day of June,

2012.

Became law on the date it was ratified.

Session Law 2012-117

H.B. 1206

AN ACT TO MORE ACCURATELY DESCRIBE THE CORPORATE LIMITS OF THE TOWN OF BUTNER.

The General Assembly of North Carolina enacts:

SECTION 1. Article II of the Charter of the Town of Butner, being Section 1.1 of S.L. 2007-269, reads as rewritten:

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Butner are as shown ~~on a map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner City Hall, the Granville County Planning Department, and in the office of the Granville County Board of Elections.~~ on the plat recorded at Plat Book 40, Page 168, Sheets 1-33, in the office of the Granville County Register of Deeds entitled "Corporate Limits Survey for the Town of Butner" and shall also include that certain tract of land consisting of 47.3523 acres and that certain tract of land consisting of 12.0022 acres as shown on that certain plat recorded at Plat Book 34, Page 144, in the office of the Granville County Register of Deeds entitled "Survey For: Public Acquisition/South Granville Water and Sewer Authority/Dutchville Township-Granville County/Butner, North Carolina." The area within said boundaries shall be in the Town of Butner and in no other municipality.

"Section 2.2. **Extraterritorial Jurisdiction.** Until modified in accordance with law, the extraterritorial jurisdiction of the Town of Butner under G.S. 160A-360 shall be as shown on a ~~map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner Town Hall, the Granville County Planning Department, and in the office of the Granville County Board of Elections.~~ maps recorded in Plat Book 40, Page 169, Sheets 1-13, in the office of the Granville County Register of Deeds entitled "Mapping of Extraterritorial Jurisdiction for the Town of Butner."

"Section 2.3. **Restrictions on Annexation as to Creedmoor.**

(a) The Town of Butner may not annex under Article 4A of Chapter 160A of the General Statutes any territory not shown in its corporate limits on the plats recorded at Plat Book 40, Page 168, Sheets 1-33, in the office of the Granville County Register of Deeds entitled "Corporate Limits Survey for the Town of Butner" or in its extraterritorial jurisdiction on the map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner Town Hall, the Granville County Planning Department, and the Granville County Board of Elections. maps recorded in Plat Book 40, Page 169, Sheets 1-13, in the office of the Granville County Register of Deeds entitled "Mapping of Extraterritorial Jurisdiction for the Town of Butner" located east of the centerline of Cash Road and south of Interstate 85 without first receiving approval of the City of Creedmoor Board of Commissioners.

(b) For a period of five years following the effective date of the incorporation of the Town of Butner, the Town of Butner may not involuntarily annex under Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes any territory not shown in its corporate limits or extraterritorial jurisdiction ~~on the map produced June 12, 2007, by the Granville County Tax Department and kept on file in the Butner Town Hall, the Granville County Planning Department, and the Granville County Board of Elections.~~ on the plats recorded at Plat Book 40, Page 168, Sheets 1-33, in the office of the Granville County Register of Deeds entitled "Corporate Limits Survey for the Town of Butner" or in its extraterritorial jurisdiction on the maps recorded in Plat Book 40, Page 169, Sheets 1-13, in the office of the Granville County Register of Deeds entitled "Mapping of Extraterritorial Jurisdiction for the Town of Butner" located west of the centerline of Cash Road and South of Interstate 85 without first receiving approval of the City of Creedmoor Board of Commissioners.

"Section 2.4. **Restrictions on Annexation and Extraterritorial Jurisdiction as to the City of Durham.**

(a) Notwithstanding the provisions of G.S. 160A-58.1(b)(2) and provided the remainder of the requirements of Part 4 of Article 4A of Chapter 160A of the General Statutes are met, the City of Durham may annex by satellite annexation pursuant to G.S. 160A-58.1, or any successor statute, any territory in Durham County that is closer to the primary corporate limits of the Town of Butner than to the primary corporate limits of the City of Durham. This subsection shall also be considered as part of the Charter of the City of Durham.

(b) In addition to any other requirements of law, the Town of Butner may not annex under Article 4A of Chapter 160A of the General Statutes any territory in Durham County, or exercise extraterritorial authority under Article 19 of Chapter 160A of the General Statutes in Durham County, without first receiving approval of the City of Durham, as evidenced by a resolution or ordinance adopted by the City Council.

(e) The Town of Butner shall not request any changes in this section of the Charter without first receiving approval of the City of Durham, as evidenced by a resolution or ordinance adopted by the City Council."

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-118

H.B. 1216

AN ACT REMOVING CERTAIN RESTRICTIONS ON SATELLITE ANNEXATIONS FOR THE TOWN OF WALLACE.

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 Belmont, 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, Apex, Ayden, Benson, Bladenboro, Bridgeton, 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, Huntersville, Jamestown, Kenansville, Kenly, Knightdale, Landis, Leland, Lillington, Louisburg, Maggie Valley, Maiden, Mayodan, Middlesex, Midland, Mocksville, Morrisville, Mount Pleasant, Nashville, Oak Island, Pembroke, Pine Level, Princeton, Ranlo, Richlands, 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. This act applies only to the annexation of the property on which the Vidant Family Medicine facility is located.

SECTION 3. This act applies to the Town of Wallace only.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-119

H.B. 1217

AN ACT TO ADJUST THE BOUNDARIES OF THE TOWN OF WOODFIN AND THE CITY OF ASHEVILLE, AS REQUESTED BY THE GOVERNING BOARDS OF THOSE MUNICIPALITIES, BY (1) ANNEXING INTO THE CITY OF ASHEVILLE CERTAIN STATE-OWNED PROPERTY, (2) REMOVING CERTAIN STATE-OWNED PROPERTY FROM THE TOWN OF WOODFIN AND ANNEXING IT INTO THE CITY OF ASHEVILLE, (3) REMOVING CERTAIN STATE-OWNED AND PRIVATE PROPERTY FROM THE CITY OF ASHEVILLE AND ANNEXING IT INTO THE TOWN OF WOODFIN, AND (4) UPON PETITION OF THE OWNER AND WITH THE CONCURRENCE OF THE TOWN OF WOODFIN, ALLOWING THE CITY OF ASHEVILLE TO ANNEX CERTAIN PROPERTY IN THE TOWN OF WOODFIN THAT, AS A RESULT OF THE OPERATION OF THIS ACT, IS SURROUNDED BY THE CITY OF ASHEVILLE OR A COMBINATION OF THE CITY OF ASHEVILLE AND UNINCORPORATED AREA, AND PROVIDING FOR THE CITY OF ASHEVILLE AND THE TOWN OF WOODFIN TO ENTER INTO AGREEMENTS REGARDING THE PROVISION OF MUNICIPAL SERVICES TO CERTAIN PROPERTIES IN EACH OTHER'S JURISDICTION.

The General Assembly of North Carolina enacts:

SECTION 1. All of that property shown on Sheet 1 of 6 of the "Survey for Asheville/Woodfin Boundary Adjustments and Annexations," recorded in Plat Book 132 at Pages 166 through 171 in the Buncombe County Registry (herein Asheville/Woodfin Boundary Survey) and designated as "Proposed Annexation Area Town of Woodfin (currently City of Asheville)" is hereby removed from the City of Asheville and annexed into the Town of Woodfin.

SECTION 2. The corporate limits of the City of Asheville and the Town of Woodfin are hereby adjusted and reestablished as shown on Sheets 2, 3, 4, 5, and 6 of the Asheville/Woodfin Boundary Survey such that:

- (1) Those areas designated as "Proposed Annexation Area City of Asheville (currently Town of Woodfin)" are removed from the Town of Woodfin and annexed into the City of Asheville;
- (2) Those areas designated as "Proposed Annexation Area City of Asheville (currently Buncombe County)" are annexed into the City of Asheville; and
- (3) The remaining unincorporated area situated at the intersection of U.S. 19-23, Broadway Street, and Riverside Drive is annexed into the Town of Woodfin.
- (4) All of that property described in a deed from W. T. Duckworth, et al. to the State of North Carolina, recorded July 1, 1968, in Deed Book 983, page 247, in the Buncombe County Registry, and shown on a plat recorded in Plat Book 37, page 89, Buncombe County Registry is annexed into the City of Asheville.

SECTION 3. Except as adjusted herein, the boundaries of the City of Asheville and the Town of Woodfin are unchanged.

SECTION 4. Any property shown on Sheets 2, 3, or 4 of the Asheville/Woodfin Boundary Survey as being part of the Town of Woodfin, and which by operation of this act is no longer contiguous with the primary limits of the Town of Woodfin, may be annexed by the City of Asheville pursuant to Part 1 of Article 4A of Chapter 160A of the General Statutes (or

successor statute) upon petition of the property owner as provided in that Part, but only if the petition is accompanied by an ordinance of the Town of Woodfin consenting to such annexation. The annexation may only become effective on June 30 of a calendar year and does not extinguish tax liens of the Town of Woodfin. Nothing in this act shall be construed as limiting the powers of the City of Asheville or the Town of Woodfin under Article 4A of Chapter 160A of the General Statutes (or successor statute) with respect to any unincorporated area.

SECTION 5. In order to provide efficient delivery of services, the Town of Woodfin, the City of Asheville, and Buncombe County are hereby authorized to enter into intergovernmental agreements regarding delivery of municipal services to those parts of the Town of Woodfin made noncontiguous by operation of this act, and to unincorporated areas of Buncombe County that are completely surrounded by the City of Asheville or a combination of the City of Asheville and the Town of Woodfin by operation of this act.

SECTION 6. This act becomes effective June 30, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-120

S.B. 443

AN ACT TO ELIMINATE THE NORTH CAROLINA STATE ART SOCIETY, INC., TO CREATE A DIRECTOR'S COMMITTEE TO HIRE AND SUPERVISE THE DIRECTOR OF THE NORTH CAROLINA MUSEUM OF ART, TO REMOVE THE NORTH CAROLINA CEMETERY COMMISSION FROM THE NORTH CAROLINA DEPARTMENT OF COMMERCE, TO ENDOW THE CEMETERY COMMISSION WITH POWERS SIMILAR TO OCCUPATIONAL LICENSING BOARDS, TO MODIFY THE TERM OF THE VETERINARY TECHNICIAN APPOINTEE TO THE VETERINARY MEDICAL BOARD, AND TO INCREASE THE LENGTH OF THE TERM OF THE GENERAL ASSEMBLY'S APPOINTEES TO THE GEOGRAPHIC INFORMATION COORDINATING COUNCIL.

The General Assembly of North Carolina enacts:

PART I. ELIMINATE NORTH CAROLINA STATE ART SOCIETY, INC.

SECTION 1.(a) Effective October 1, 2012, G.S. 105-275(41) is repealed.

SECTION 1.(b) Effective October 1, 2012, G.S. 135-27 reads as rewritten:

"§ 135-27. **Transfers from State to certain association service.**

...

(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 1.(c) Effective October 1, 2012, Article 3 of Chapter 140 of the General Statutes, G.S. 143B-51(b)(7), and Part 15 of Article 2 of Chapter 143B of the General Statutes are repealed.

SECTION 1.(d) Effective October 1, 2012, G.S. 143B-53 reads as rewritten:

"§ 143B-53. Organization of the Department.

The Department of Cultural Resources shall be organized initially to include the Art Commission, the Art Museum Building Commission, the North Carolina Historical Commission, the Tryon Palace Commission, the U.S.S. North Carolina Battleship Commission, the Sir Walter Raleigh Commission, the Executive Mansion Fine Arts Committee, the American Revolution Bicentennial Committee, the North Carolina Awards Committee, the North Carolina Arts Council, the Public Librarian Certification Commission, the State Library Commission, the North Carolina Symphony Society, Inc., ~~the North Carolina State Art Society,~~ and the Division of the State Library, the Division of Archives and History, the Division of the Arts, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973."

SECTION 1.(e) Effective October 1, 2012, G.S. 140-5.13(b) reads as rewritten:

"(b) The Board of Trustees of the North Carolina Museum of Art shall consist of ~~29~~25 members, chosen as follows:

- (1) The Governor shall appoint 13 members, one from each congressional district in the State in accordance with G.S. 147-12(3b);
- (2) ~~The North Carolina State Art Society, Incorporated, shall elect four members;~~
- (3) The North Carolina Museum of Art Foundation, Incorporated, shall elect four members;
- (4) The Board of Trustees of the North Carolina Museum of Art shall elect four members;
- (5) The General Assembly shall appoint four members, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121;
- (6) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1191, s. 49.

All regular appointments or elections except those by the General Assembly shall be for terms of six years, except that each member shall serve until ~~his~~the member's successor is chosen and qualifies. No person may be appointed or elected to more than two consecutive terms of six years. All regular appointments by the General Assembly shall be for the then current legislative term, and no appointee of the General Assembly may be appointed to more than two consecutive terms of two years."

PART II. CREATE DIRECTOR'S COMMITTEE

SECTION 2.(a) G.S. 140-5.15 reads as rewritten:

"§ 140-5.15. Director of Museum of Art; appointment; dismissal; powers and duties; staff.

(a) ~~The Secretary of Cultural Resources-Director's Committee shall appoint-elect and supervise the Director of the North Carolina Museum of Art from a list of not fewer than two nominees recommended by the Board of Trustees of the North Carolina Museum of Art and may dismiss the Director. The Director's Committee shall evaluate the performance of the Director and shall determine the Director's compensation within the limitations of available funding.~~

~~(b) The Secretary of Cultural Resources may dismiss the Director unless two thirds of the authorized membership of the Board of Trustees shall vote to reverse that action in accordance with the following procedure: Upon dismissal of the Director, the Secretary shall give to the chairman of the Board of Trustees written notice of that action. This notice shall be sent to the chairman of the Board within 10 days after the Secretary makes a final decision on dismissal. The chairman shall promptly communicate the notice of dismissal to all other Board members. Board action to consider reversal of the Secretary's decision shall be taken at a regular or special meeting called pursuant to G.S. 140-5.13(h). Reversal of the Secretary's order of dismissal may be effected only by resolution adopted by an affirmative vote of two thirds of the authorized membership of the Board of Trustees at a meeting held within 30 days after the chairman of the Board receives from the Secretary written notice of dismissal of the Director. All ex officio members of the Board shall be entitled to vote on this question. The failure of two thirds of the authorized membership of the Board of Trustees to vote to reverse the Secretary's order of dismissal within 30 days after the chairman of the Board receives from the Secretary written notice of dismissal of the Director shall be deemed an affirmance of that order by the Board.~~

(b1) The Director's Committee shall consist of five members chosen as follows:

- (1) The Secretary of Cultural Resources, who shall serve as the chairman of the Committee.
- (2) The Chair of the Board of Trustees of the North Carolina Museum of Art.
- (3) One member designated by the Board of Trustees of the North Carolina Museum of Art.
- (4) The President of the Board of Directors of the North Carolina Museum of Art Foundation, Inc., or the President's designee.
- (5) One member designated by the Board of the North Carolina Museum of Art Foundation, Inc.

(b2) The members of the Director's Committee selected under subdivisions (b1)(3) and (b1)(5) of this section shall serve terms of four years and may not serve more than two consecutive terms of four years. Four members of the Committee shall constitute a quorum for the transaction of business.

(c) The State-funded portion of the salary of the Director shall be fixed by the General Assembly in the Current Operations Appropriations Act.

(d) The Director shall have the following powers and duties:

- (1) Under the supervision of the ~~Board of Trustees,~~ Director's Committee, to direct and administer the North Carolina Museum of Art in accordance with the policies, rules, and regulations adopted by the Board of Trustees;
- (2) To employ such persons as are necessary to perform the functions of the North Carolina Museum of Art and are provided for in the budget of the Museum and to promote, demote, and dismiss such persons in accordance with State personnel policies, rules, and regulations. This paragraph shall not apply to associate directors and curators;
- (3) To serve as director of collections of the North Carolina Museum of Art;
- (4) To serve as Secretary to the Board of Trustees.

(e) The Director, associate directors, and curators shall be exempt from the provisions of the State Personnel Act. The Board of Trustees shall adopt, subject to the approval of the Secretary of Cultural Resources, rules and regulations governing the employment, promotion, demotion, and dismissal of associate directors and curators."

SECTION 2.(b) G.S. 140-3.15(g) reads as rewritten:

"(g) The Board of Trustees shall have a chairman, a vice-chairman, and such other officers as the Board deems necessary. The chairman shall be designated by the Governor from among the members of the Board. The vice-chairman shall be elected by and from among the members of the Board. The chairman and vice-chairman shall be chosen for terms of two years or for so long as they are members of the Board, whichever is the shorter period. The Director

of the North Carolina Museum of Art shall serve as Secretary to the Board of Trustees and shall attend all meetings, ~~except when the Board is considering issues related to the Director's performance of duties, meetings.~~"

PART III. CHANGES TO CEMETERY COMMISSION

SECTION 3.(a) G.S. 65-49 reads as rewritten:

"§ 65-49. The North Carolina Cemetery Commission.

~~There is hereby established in the Department of Commerce a~~ The North Carolina Cemetery Commission is established with the power and duty to adopt rules and regulations to be followed in the enforcement of this Article."

SECTION 3.(b) G.S. 65-50 reads as rewritten:

"§ 65-50. Cemetery Commission; members, selection, quorum.

(a) Membership. – The Cemetery Commission shall consist of nine members. The General Assembly shall appoint two ~~members,~~ members who own or manage or who have retired from owning or managing a cemetery in North Carolina, one of whom shall be recommended by the President Pro Tempore of the Senate and one of whom shall be recommended by the Speaker of the House of Representatives. The Governor shall appoint seven members as follows:

- (1) Two members who own or manage cemeteries in North Carolina.
- (2) Three members who are selected from six nominees submitted by the North Carolina Cemetery Association.
- (3) Two public members who have no financial interest in, and are not involved in management of, any cemetery or funeral related business.

(b) Terms. – Four members of the initial Commission shall be appointed for a term to expire June 30, 1977, and three members shall be appointed for a term to expire June 30, 1976. At the end of the respective terms of office of the initial members of the Commission, their successors shall be nominated in the same manner, selected from the same categories and appointed for terms of four years and until their successors are appointed and qualified. ~~Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.~~

(b1) Any vacancy shall be filled by the authority originally filling that position, except that any vacancy in appointments by the General Assembly shall be filled in accordance with G.S. 120-122.

(c) Removal. – The appointing authority shall have the power to remove any member of the Commission appointed by that authority from office for misfeasance, malfeasance and nonfeasance according to applicable provisions of law.

(d) Quorum. – A majority of the Commission shall constitute a quorum for the transaction of business.

(e) ~~Chair-Officers.~~ – At the first meeting of the Commission held after September 1, 1975, the Commission shall elect one of its members as its ~~chairman~~ chair and another as its ~~vice-chairman,~~ vice-chair, both to serve through June 30 of the next following year. Thereafter, at its first meeting held on or after July 1 of each year, the Commission shall elect from its members a ~~chairman and vice-chairman to serve through June 30 of the next following year,~~ president, vice president, and secretary-treasurer with no two offices to be held by the same person. All officers shall serve a term of one year and shall serve until their successors are elected and qualified."

SECTION 3.(c) G.S. 65-51 reads as rewritten:

"§ 65-51. Principal office.

The principal office of the Commission shall be in the City of Raleigh, North Carolina. Notice of all regular and special meetings of the Commission shall be advertised 10 or more days in advance in at least three newspapers in North Carolina having inter-county circulation in the State. Each member of the Commission shall receive per diem and allowances in accordance with G.S. 138-5-G.S. 93B-5. ~~The~~ Members of the

~~Commission, Commission and other employees required to attend and legal counsel to the Commission shall be entitled to actual expenses while attending regular or special meetings of the Commission held other than in Raleigh, North Carolina. All salaries, compensation, and expenses of the Commission shall be paid from funds coming to the Commission pursuant to this Article. In no case shall any salary, compensation, or other expense of the Commission be charged against the General Fund."~~

SECTION 3.(d) G.S. 65-53 reads as rewritten:

"§ 65-53. Powers.

In addition to other powers conferred by this Article, the Cemetery Commission shall have the following powers and duties:

- (1) ~~The administrator shall be appointed by the Governor upon recommendation of the Cemetery Commission. The compensation of the administrator and such other personnel as is necessary to operate the Commission is subject to the provisions of Chapter 126 of the General Statutes of North Carolina. The Commission is authorized and empowered to~~ To employ such staff, including legal counsel, as may be necessary to perform its duties and determine the compensation of its employees.
- (2) To examine a cemetery company's records when a person applies for a change of control of the company.
- (3) Investigate, upon its own initiative or upon a verified complaint in writing, the actions of any person engaged in the business or acting in the capacity of a licensee under this Article. The license of a licensee may be revoked or suspended for a period not exceeding two years, or until compliance with a lawful order imposed in the final order of suspension, or both, where the licensee in performing or attempting to perform any of the acts specified in this Article has been guilty of:
 - a. Failing to pay the fees required herein;
 - b. Failing to make any reports required by this Article;
 - c. Failing to remit to the care and maintenance trust fund, merchandise trust fund, or preconstruction trust fund the required amounts;
 - d. Making any substantial misrepresentation;
 - e. Making any false statement of a character likely to influence or persuade;
 - f. A continued and flagrant course of misrepresentation or making of false promises through cemetery agents or salesmen;
 - g. Violating any provision of this Article or rule promulgated by the Commission; or
 - h. Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.
- (4) ~~In all proceedings under this Article for the revocation or suspension of licenses, the provisions of Chapter 150B of the General Statutes shall be applicable. To hold hearings in accordance with the provisions of this Article and Article 3A of Chapter 150B of the General Statutes to subpoena witnesses and to administer oaths to or receive the affirmation of witnesses before the Commission.~~

In any show cause hearing before the Commission held under the authority of Article 3A of Chapter 150B of the General Statutes where the Commission imposes discipline against a licensee, the Commission may recover the costs, other than attorneys' fees, of holding the hearing against all respondents jointly, not to exceed two thousand five hundred dollars (\$2,500).
- (5) ~~At such time as the Commission finds it necessary it may bring an action in the name of the State in the court of the county in which the place of~~

~~business is located against such person to enjoin such person from engaging in or continuing such violation or doing any act or acts in furtherance thereof. To apply to the courts, in its own name, for injunctive relief to prevent violations of this Article or violations of any rules adopted pursuant to this Article. Any court may grant injunctive relief regardless of whether criminal prosecution or any other action is instituted as a result of the violation. A single violation is sufficient to invoke the injunctive relief under this subdivision.~~ In any such action, an order or judgment may be entered awarding such temporary or permanent injunction as may be deemed proper; provided, that before any such action is brought the Commission shall give the cemetery at least 20 days' notice in writing, stating the alleged violation and giving the cemetery an opportunity within the 20-day period to cure the violation. In addition to all other means provided by law for the enforcement of a temporary restraining order, temporary injunction, or permanent injunction, the court shall have the power and jurisdiction to impound and to appoint a receiver for the property and business of the defendant, including books, papers, documents, and records appertaining thereto or so much thereof as the court may deem reasonably necessary to prevent further violation of this Article through or by means of the use of said property and business. The Commission may institute proceedings against the cemetery or its officers, whereafter an examination, pursuant to this Article, a shortage in the care and maintenance trust fund, merchandise trust fund or mausoleum and belowground crypts preconstruction trust fund is discovered, to recover said shortage.

- (6) Whenever any special additional audit or examination of a licensee's premises, facilities, books or records is necessary because of the failure of the licensee to comply with the requirements imposed in this Article or by the rules and regulations of the Commission, to charge a fee based on the cost of the special examination or audit, taking into consideration the salary of any employees involved in the special audit or examination and any expenses incurred.
- (7) ~~Promulgate~~To promulgate rules and regulations requiring licensees to file with the Commission plans and specifications for the minimum quality of any product sold. The sale of any product for which plans and specifications required by the rules and regulations have not been filed or sale of any product of a lesser quality than the plans and specifications filed with the Commission is a violation of this Article.
- (8) When the Commission finds that failure by a licensee to maintain a cemetery properly has caused that cemetery to be a public nuisance or a health or safety hazard, the Commission may bring an action for injunctive relief, against the responsible licensee, in the superior court of the county in which the cemetery or any part thereof is located.
- (9) To acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and Council of State. Collateral pledged by the Commission for an encumbrance is limited to the assets, incomes, and resources of the Commission.
- (10) To purchase, rent, or lease equipment and supplies and purchase liability insurance to cover the activities of the Commission, its operations, or its employees."

SECTION 3.(e) Article 9 of Chapter 65 of the General Statutes is amended by adding a new section to read:

"§ 65-53.1. Inspectors.

(a) The Commission may appoint one or more agents who shall serve at the pleasure of the Commission and who shall have the title "Inspector of the North Carolina Cemetery Commission."

(b) To determine compliance with the provisions of this Article and regulations promulgated under this Article, inspectors may do the following:

(1) Enter the office, establishment, or place of business in North Carolina of any cemetery broker, cemetery company, cemetery management organization, cemetery sales organization, or preneed sales licensee to inspect the records, office, establishment, or facility or to inspect the practice conducted or license of any licensee.

(2) Inspect criminal and probation records of licensees and applicants for licenses under this Article to obtain evidence of their character.

(c) Inspectors may serve papers and subpoenas issued by the Commission or any office or member thereof under authority of this Article and shall perform other duties prescribed or ordered by the Commission.

(d) The Commission may prescribe an inspection form to be used by the inspectors in performing their duties.

(e) Upon request by the Commission, the Attorney General of North Carolina shall provide the inspectors with appropriate identification cards signed by the Attorney General or his or her designated agent. In lieu of identification cards, the Commission may design and issue badges to inspectors."

SECTION 3.(f) Article 9 of Chapter 65 of the General Statutes is amended by adding a new section to read:

"§ 65-54.1. Commission records are confidential.

Records, papers, and other documents containing information collected or compiled by the Commission, its members, or employees as a result of a complaint, investigation, inquiry, or interview in connection with an application for license, or in connection with a license holder's professional ethics and conduct, shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges against a license holder or applicant, or any notice to a license holder or applicant of a hearing to be held by the Commission, is a public record even though it may contain information collected and compiled as a result of a complaint, investigation, inquiry, or interview conducted by the Commission. If any record, paper, or other document containing information collected and compiled by the Commission is admitted into evidence in a hearing held by the Commission, it shall then be a public record within the meaning of Chapter 132 of the General Statutes."

SECTION 3.(g) G.S. 143B-433(1) reads as rewritten:

"§ 143B-433. Department of Commerce – organization.

The Department of Commerce shall be organized to include:

- (1) The following agencies:
 - a. The North Carolina Alcoholic Beverage Control Commission.
 - b. The North Carolina Utilities Commission.
 - c. Repealed by Session Laws 2011-401, s. 1.5, effective November 1, 2011.
 - d. The North Carolina Industrial Commission.
 - e. State Banking Commission.
 - f. Savings Institutions Division.
 - g. Repealed by Session Laws 2001-193, s. 11, effective July 1, 2001.
 - h. Credit Union Commission.
 - i. Repealed by Session Laws 2004-199, s. 27(d), effective August 17, 2004.
 - j. The North Carolina Mutual Burial Association Commission.
 - k. ~~North Carolina Cemetery Commission.~~

- l. The North Carolina Rural Electrification Authority.
- m. Repealed by Session Laws 1985, c. 757, s. 179(d).
- n. North Carolina Science and Technology Research Center.
- o. Repealed by Session Laws 2011-145, s. 14.6(g), effective July 1, 2011.
- p. Repealed by Session Laws 2010-180, s. 7(f), effective August 2, 2010.
- q. Economic Development Board.
- r. Labor Force Development Council.
- s., t. Repealed by Session Laws 2000, c. 140, s. 76.(j), effective September 30, 2000.
- u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.
- v. Repealed by Session Laws 1993, c. 321, s. 313b."

SECTION 3.(h) Section 14.7(a) of S.L. 2011-145 reads as rewritten:

"SECTION 14.7.(a) In consultation with the Fiscal Research Division, the Department of Commerce and the ABC Commission, State Banking Commission, Credit Union Division, ~~Cemetery Commission~~, Utilities Commission, Utilities Commission Public Staff, and the Rural Electrification Authority shall study the following: (i) the types of services provided by the Department of Commerce to each of the agencies during each fiscal year; and (ii) formulas or methods to be used to determine the costs of the services, including the advantages and disadvantages of each formula or method. The Department of Commerce and each of the agencies shall prepare a joint recommendation as to which formula or method to determine the costs of the services should be used. In addition, the Department of Commerce and each of the agencies shall develop a memorandum of understanding that details the services to be provided by the Department of Commerce during each fiscal year."

SECTION 3.1. Effective June 30, 2012, G.S. 90-182(c) reads as rewritten:

"(c) All members serving on the board on June 30, 1981, shall complete their respective terms. The Governor shall appoint the public member not later than July 1, 1981. No member appointed to the Board by the Governor, Lieutenant Governor, Speaker of the House of Representatives, or General Assembly on or after July 1, 1981, shall serve more than two complete consecutive five-year terms, except that each member shall serve until his successor is appointed and qualifies. The term of the veterinary technician appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall begin on June 30th of the year in which he or she is appointed."

SECTION 3.2. G.S. 143-726(c) reads as rewritten:

"(c) General Assembly Appointments. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint three members to the Council. These members shall serve ~~one year~~three-year terms."

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 2:08 p.m. on the 28th day of June, 2012.

Session Law 2012-121

H.B. 552

AN ACT TO CREATE THE GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY, TO REMOVE THE ASHEVILLE REGIONAL AIRPORT AND THE WESTERN NORTH CAROLINA AGRICULTURAL CENTER FROM THE ZONING JURISDICTION OF THE CITY OF ASHEVILLE, TO REQUIRE THE CITY OF ASHEVILLE TO CONVEY TO THE STATE OF NORTH CAROLINA ANY OF ITS

RIGHT, TITLE, AND INTEREST TO THE WESTERN NORTH CAROLINA AGRICULTURAL CENTER, AND TO REMOVE THE WESTERN NORTH CAROLINA AGRICULTURAL CENTER FROM THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

PART I. GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY ACT.

SECTION 1.1. This Part shall be known and may be cited as the "Greater Asheville Regional Airport Authority Act," and any reference in this Part to "this act" means the Greater Asheville Regional Airport Authority Act.

SECTION 1.2. There is hereby created the Greater Asheville Regional Airport Authority, which shall be a body corporate and politic, having the powers, authority, and jurisdiction hereinafter enumerated and such other and additional powers and authority as shall be conferred upon it by future acts of the General Assembly.

SECTION 1.3. Unless the context requires otherwise, the following definitions apply throughout this act to the defined words and phrases and their cognates:

- (1) "Airport facilities" means airport facilities of all kinds, including, but not limited to, landing fields, hangars, fixed base operations, shops, restaurants and catering facilities, terminals, buildings, and parking facilities and all other facilities necessary, beneficial, and/or helpful for the landing, taking off, operating, servicing, repairing, and parking of aircraft, the loading, unloading, and handling of cargo and mail, express and freight, and the accommodation, convenience, and comfort of crews and passengers, together with related transportation facilities, all necessary, beneficial, and/or helpful appurtenances, machinery, and equipment, and all lands, properties, rights, easements, and franchises relating thereto and considered necessary, beneficial, and/or helpful by the Authority in connection therewith.
- (2) "ARAA member" means a member of the Asheville Regional Airport Authority in existence when this act becomes law.
- (3) "Authority" means the Greater Asheville Regional Airport Authority created by this act or, if such Authority is abolished, the authority, board, body, commission, or other entity succeeding to the principal functions thereof.
- (4) "Member" means an individual who is appointed to the Authority as provided by this act.

SECTION 1.4.(a) The Authority shall consist of seven members, (i) one of whom must have experience in aviation, (ii) one of whom must have experience in travel and tourism, and (iii) one of whom must have experience in one or more of marketing, business development, or economic development. In addition, the appointing authorities are encouraged to appoint members who, when practical, have experience in logistics, construction and/or facilities management, law, accounting and/or finance. The seven members shall be appointed as follows:

- (1) Two shall be registered voters of the City of Asheville appointed by the Asheville City Council.
- (2) Two shall be registered voters of the County of Buncombe appointed by the Board of Commissioners of Buncombe County.
- (3) Two shall be registered voters of the County of Henderson appointed by the Board of Commissioners of Henderson County.
- (4) One shall be appointed by majority vote of the other six members.

SECTION 1.4.(a1) No person holding any elected public office may be a member of the Authority, provided that if an ARAA member also holds an elective public office when this act becomes effective, that member may serve as a member of the Authority until the completion of the term of elective office and until a successor is appointed and qualified.

SECTION 1.4.(b) No person who, at the time of appointment, is transacting business with the Authority or who is reasonably expected to transact business with the Authority, or is an employee, agent, or consultant of an entity transacting or expecting to transact business with the Authority, may be appointed as a member of the Authority, provided this sentence does not apply to a person who is an employee of a public utility which is the sole available supplier for the Authority. No person who, at the time of appointment, is an employee or agent of or consultant to the Authority may be appointed as a member of the Authority.

SECTION 1.4.(c) Members of the Authority shall serve four-year terms and may serve up to a total of two successive four-year terms. A member may not be reappointed to the Authority except after a lapse of four years following the most recent term served. In the event a member is appointed to fill an unexpired term, and at least two years of the unexpired term remain to be served, such appointment shall be counted in applying the two-term limit, otherwise it shall not be counted. Notwithstanding the foregoing, those individuals serving as ARAA members as of the effective date of this act may continue to serve as members of the Authority until the completion of their respective then current terms and until their successors are appointed and qualified. In the event an ARAA member resigns or is removed, the appointing authority under the agreement between the County of Buncombe and the City of Asheville shall forthwith appoint a replacement ARAA member to complete the unexpired term. Thereafter, and with respect to the four ARAA members whose terms expire June 30, 2012, the Asheville City Council, the Board of Commissioners of Buncombe County, and the Board of Commissioners of Henderson County each shall appoint one member of the Authority, and the other members shall appoint, by majority vote, the fourth member. With respect to the three ARAA members whose terms expire June 30, 2014, the Asheville City Council, the Board of Commissioners of Buncombe County, and the Board of Commissioners of Henderson County each shall appoint one member of the Authority.

SECTION 1.4.(d) Any vacancy occurring among the membership of the Authority shall be filled within 60 days after notice thereof by appointment of the appointing authority of a member to serve for the remainder of the unexpired term.

SECTION 1.4.(e) Members of the Authority and their successors shall take and subscribe to an oath of office before an officer authorized to administer oaths, which oath shall be filed with the Authority.

SECTION 1.4.(f) Any member of the Authority may be suspended or removed from office by that member's appointing authority for cause affecting that member's duties and responsibilities as a member; for misfeasance, malfeasance, or nonfeasance in office; or for conduct tending to undermine any decisions of the Authority, or conduct exposing the Authority to liability for damages.

SECTION 1.4.(g) Members of the Authority shall not be personally liable, in any manner, for their acts or omissions as members of the Authority, except for malfeasance.

SECTION 1.4.(h) Each member may continue to serve until a successor has been duly appointed and qualified, but not for more than 60 days.

SECTION 1.5.(a) The organization and business of the Authority shall be conducted as provided in this act.

SECTION 1.5.(b) Members of the Authority shall constitute the governing board of the Authority and may, among other things and from time to time, adopt suitable bylaws, not inconsistent with the provisions of this act.

SECTION 1.5.(c) The Authority shall appoint from its members a chair, vice-chair, and such other officers as it may from time to time deem necessary, beneficial, and/or helpful for the orderly conduct of its business. The term of office of the chair and vice-chair is two years.

SECTION 1.5.(d) Each member of the Authority, including the chair, shall have one vote. A majority of the members of the Authority shall constitute a quorum, and all actions of the Authority shall be determined by a majority vote of all the members, that is four votes in favor.

SECTION 1.5.(e) The Authority shall hold meetings at least monthly at such times and places as it from time to time may designate and at such other times on the call of the chair or by four members of the Authority. Notice of meetings shall be provided as required by Article 33C of Chapter 143 of the General Statutes. A monthly meeting of the Authority may be cancelled if it is determined by the chair or four members that such meeting is not required.

SECTION 1.5.(f) Members may receive payment or reimbursement for travel, lodging, and meal expenses incurred in transacting business on behalf of the Authority. Members may also receive free parking at any airport owned, leased, subleased, or controlled by the Authority, which members may use for official and nonofficial purposes during the respective member's term of office.

SECTION 1.5.(g) The fiscal year of the Authority shall begin on July 1 and end on June 30. On or before May 15 of each year, the Authority shall prepare and adopt a proposed budget for the next ensuing fiscal year and deliver copies of such proposed budget to the Buncombe and Henderson County Boards of Commissioners and the Asheville City Council.

SECTION 1.5.(h) All meetings and closed sessions of the Authority shall be conducted in accordance with Article 33C of Chapter 143 of the General Statutes as it may be amended or in accordance with any successor statute.

SECTION 1.6.(a) The Authority shall constitute a body, both corporate and politic, and shall have the power and authority to do the following:

- (1) Adopt and from time to time revise an official seal.
- (2) Maintain an office or offices at such place or places as it may designate within Buncombe or Henderson Counties only.
- (3) Purchase, acquire, develop, establish, construct, own, control, lease, equip, improve, administer, maintain, operate, and/or regulate airports and/or landing fields for the use of airplanes and other aircraft and all facilities incidental thereto, within the limits of Buncombe and/or Henderson Counties; and for any of such purposes, purchase, acquire, own, develop, hold, lease, sublease, and operate real and/or personal property.
- (4) Purchase real and personal property.
- (5) Sue and be sued in the name of the Authority, to acquire by purchase or otherwise and to hold lands for the purpose of constructing, maintaining, and/or operating any airport within the limits of said counties, and to make such contracts and to hold such personal property as may be necessary, beneficial, and/or helpful for the exercise of the powers of the Authority. The Authority may acquire by purchase or otherwise any existing lease, sublease, leasehold right, or other interest in any existing airport facility located in the Counties of Buncombe and/or Henderson.
- (6) Charge and collect fees, royalties, rents, and/or other charges, including fuel flowage fees, for the use and/or occupancy of property owned, leased, subleased, or otherwise controlled or operated by the Authority or for services rendered in the operation thereof.
- (7) Make all reasonable rules, regulations, and policies as it may from time to time deem to be necessary, beneficial, or helpful for the proper maintenance, use, occupancy, operation, and/or control of any airport or airport facility owned, leased, subleased, or controlled by the Authority; provide and enforce civil and criminal penalties for the violation of such rules, regulations, and/or policies; provided that such rules, regulations, policies, and penalties are not in conflict with any applicable law, rule, or regulation of the State of North Carolina, the United States, or any agency, department, or subdivision of either of them, including the rules and regulations of the Federal Aviation Administration.

- (8) Sell, exchange, lease, sublease, or otherwise dispose of, any property, real or personal, belonging to the Authority, or grant easements over, through, under, or across any real property belonging to the Authority, or donate to another governmental entity within this State or to the United States any surplus, obsolete, or unused personal property; provided that Article 12 of Chapter 160A of the General Statutes does not apply and is not applicable to any such sale, exchange, lease, sublease, grant, donation, or other disposition.
- (9) Purchase such insurance and insurance coverages as the Authority may from time to time deem to be necessary, beneficial, or helpful.
- (10) Maintain and/or operate any airport or landing field jointly with any county or counties adjoining either the County of Buncombe or the County of Henderson or both of them and/or with other aviation/airport authority or authorities operating under authorization from one or more adjoining counties and/or any municipality located therein.
- (11) Deposit, invest, and/or reinvest any of its funds as provided by the Local Government Finance Act for the deposit or investment of unit funds.
- (12) Issue revenue bonds and/or refunding bonds pursuant to the State and Local Government Revenue Bond Act.
- (13) Purchase any of its outstanding bonds or notes.
- (14) Operate, own, lease, sublease, control, regulate, and/or grant to others the right to operate on any airport premises restaurants, snack bars and vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barber shops, automobile parking and storage facilities, automobile service stations, garage service facilities, motion picture shows, personal service establishments, and/or all other types of facilities as may be directly or indirectly related to the maintenance and/or furnishing of the public commercial and/or general aviation airport facilities.
- (15) Accept grants of money and/or materials or property of any kind for any existing or future airport facilities from the State of North Carolina, the United States, or any agency, department, or subdivision of either of them, including the Federal Aviation Administration, or from any private agency, entity, or individual, upon such terms and conditions as may be imposed, and enter into contracts and grants agreements with the Federal Aviation Administration, or any successor or successors thereof, and/or with the State of North Carolina or any of its agencies, departments, or subdivisions in the capacity of sponsor or cosponsor of any airport development project involving the acquisition, construction, development, reconstruction, improvement, extension, enlargement, or equipment of any existing or future airport facilities.
- (16) Employ and fix the compensation of an airport director, who shall serve at the pleasure of the Authority and who shall manage the affairs of the Authority under the supervision of the Authority.
- (17) Employ, or provide for the employment of, such employees, including law enforcement officers, as the Authority may from time to time deem to be necessary, beneficial, or helpful. All such employees shall be employees at will, and no such employee shall have a defined or definite term of employment or an expectation of continued employment or an expectation of continued indefinite employment.
- (18) Employ, hire, retain, or contract with, such accountants, auditors, agents, engineers, attorneys, and other persons and entities whose services may from

time to time be deemed by the Authority to be necessary, beneficial, or helpful.

- (19) Make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings, and/or estimates of cost and revenues as the Authority may from time to time deem necessary, beneficial, or helpful, and prepare and adopt a comprehensive plan or plans for the location, construction, improvement, and development of any project.
- (20) Undertake and/or enter into leases, subleases, agreements, easements, and contracts, and/or grant concessions, with respect to alternative energy, energy conservation, energy reduction, and/or renewable energy activities, programs, projects, and/or ventures, and the administration, construction, development, enlargement, equipment, improvement, maintenance, management, operation, regulation, and/or repair thereof.
- (21) Exercise all of the powers conferred by Chapter 63 of the General Statutes or any successor Chapter or law.

SECTION 1.6.(b) The Authority has the same exemptions with respect to payment of taxes and license fees as provided for municipal corporations by the laws of the State of North Carolina.

SECTION 1.7.(a) The Authority is hereby authorized and empowered to acquire from the Counties of Buncombe and Henderson and the City of Asheville, by agreement therewith, and such Counties and City may grant and convey, either by gift or for such consideration as allowed by federal law and as it may be deemed wise, any real and/or personal property which it now owns or may hereafter acquire, and which may be necessary, beneficial, or helpful for the construction, development, operation, and/or maintenance of any airport or facilities of same located in the Counties of Buncombe or Henderson. If the airport ceases to operate or if the Authority is dissolved, any applicable real property of the Counties of Buncombe or Henderson or the City of Asheville conveyed or transferred to the Authority under this act shall revert to the grantor.

SECTION 1.7.(b) The County of Buncombe, the County of Henderson, and the City of Asheville shall transfer to the Authority within 90 days after enactment of this act all its right, title, and interest to the property known as the Asheville Regional Airport, except if approval of a federal agency is required, then within 90 days of that approval.

SECTION 1.7.(c) Private property needed by the Authority for any airport, landing field, or facility may be acquired by the Authority by gift, devise, or private purchase. Aviation easements needed by the Authority for any airport, landing field, or facility may likewise be acquired by gift, devise, or private purchase. Unless the power of eminent domain is required by federal law or federal regulation, Chapter 40A of the General Statutes does not apply to the Authority, and it may not exercise the power of eminent domain. If a federal law or federal regulation does require the Authority to have the power to exercise eminent domain, it may only do so for public use for an airport purpose or purposes, and any eminent domain proceeding must be authorized jointly by all of the three appointing authorities. In no case, however, may the power of eminent domain be used for purposes not necessary for the operation of the airport, and more specifically no property may be acquired by eminent domain for such uses as hotels, motels, restaurants, or industrial parks. The power of eminent domain may not be used to acquire any interest in the Ferncliff Industrial Park as it existed on June 1, 2011, except for a proven and present aviation need required by a federal agency.

SECTION 1.7.(d) Any lands acquired, owned, controlled, or occupied by the Authority shall and/or are hereby declared to be acquired, owned, controlled, and occupied for a public purpose.

SECTION 1.7.(e) The Authority is not authorized to levy any tax.

SECTION 1.7.(f) Any claim by Henderson County against the City of Asheville or the current airport authority on account of acquisition of property by either or both of them in Henderson County is extinguished.

SECTION 1.8. The Authority shall make annual reports to the Buncombe County Board of Commissioners, the Asheville City Council, and the Henderson County Board of Commissioners setting forth a summary of its general operations and transactions conducted by it pursuant to this act. The Authority shall be regarded as the corporate instrumentality and agent for Buncombe and Henderson Counties and the City of Asheville for the purpose of developing aviation facilities in the Counties of Buncombe and Henderson, but it shall have no power to pledge the credit of the Counties of Buncombe or Henderson or the City of Asheville, or to impose any obligation upon those counties, or the City of Asheville, except and when such power is expressly granted by statute.

SECTION 1.9. All rights, powers, and authority given to the counties and/or municipalities by the statutes of North Carolina, which may now be in effect, or which may be enacted in the future, relating to the development, operation, maintenance, regulation, and/or control of municipal or other governmental airports and the regulations of aircraft are hereby vested in the Authority.

SECTION 1.10. The Authority is hereby expressly authorized to make and enter into contracts, leases, subleases, conveyances, and other agreements with any political subdivision, agency, department, or instrumentality of this State, any agency, department, or subdivision of the United States, or any other legal entity or person for the purpose of carrying out the provisions of this act.

SECTION 1.11. The powers of the Authority created by this act shall be construed liberally in favor of the Authority. No listing of powers included in this act is intended to be exclusive or restrictive, and the specific mention of, or failure to mention, particular powers in this act shall not be construed as limiting in any way the general powers of the Authority as stated in Section 1.6(a) of this act. It is the intent of this act to grant the Authority full power and right to exercise all authority necessary for the effective operation and conduct of the Authority. It is further intended that the Authority should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the Authority is created. The fact that this act specifically states that the Authority possesses a certain power does not mean that the Authority must exercise such power unless this act specifically so requires.

SECTION 1.12. G.S. 66-58(a) does not apply to the Greater Asheville Regional Airport Authority or a lessee or sublessee of the Greater Asheville Regional Airport Authority.

SECTION 1.13. 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.

PART II. ASHEVILLE REGIONAL AIRPORT AND WNC AG CENTER PROVISIONS

SECTION 2.1.(a) All the property within Buncombe County owned by the City of Asheville that is part of the Asheville Regional Airport is not subject to regulation by that city under Article 19 (Planning and Regulation of Development) of Chapter 160A of the General Statutes and instead shall be subject to ordinances of Buncombe County under Article 18 (Planning and Regulation of Development) of Chapter 153A of the General Statutes. No property in Buncombe County that may hereinafter be acquired by the City of Asheville or by the Greater Asheville Regional Airport Authority to be part of the Asheville Regional Airport shall be subject to ordinances under Article 19 of Chapter 160A of the General Statutes but instead shall be subject to ordinances of Buncombe County under Article 18 (Planning and Regulation of Development) of Chapter 153A of the General Statutes.

SECTION 2.1.(b) This section is effective on the effective date of an ordinance adopted by Buncombe County to make the area under subsection (a) of this section subject to the zoning ordinance of that county.

SECTION 2.2.(a) The City of Asheville shall convey to the State of North Carolina by warranty or quitclaim deed all its right, title, and interest to the "City of Asheville

Parcel" below, which is part of the Western North Carolina Agricultural Center, and the corporate limits of the City of Asheville are reduced by removing all three parcels below from the corporate limits:

NORTH PARCEL

BEGINNING at a concrete monument located at the intersection of the West boundary of right-of-way for Interstate Highway I-26 and the South Boundary of right-of-way for Fanning Bridge Road and running South 75 degrees 50 minutes West 454.65 feet along the South Boundary of right-of-way for Fanning Bridge Road to a concrete monument; thence running parallel to, and 50 feet from, the centerline of Fanning Bridge Road the following bearings and distances: South 72 degrees 23 minutes West 456.00 feet; South 71 degrees 40 minutes West 100.00 feet; South 48 degrees 51 minutes West 51.00 feet; South 41 degrees 47 minutes West 65.00 feet; South 31 degrees 44 minutes West 50.00 feet; South 1 degree 42 minutes West 50.00 feet; South 2 degrees 29 minutes East 650.56 feet to a stake; thence leaving the right-of-way, North 84 degrees 52 minutes 12 seconds East 1301.80 feet to a stake in the West edge of Interstate Highway I-26 right-of-way; thence along the West edge of Interstate Highway I-26 right-of-way North 13 degrees 54 minutes 45 seconds West 1018.70 feet to the point of BEGINNING, and containing 25.10 acres, more or less.

CITY OF ASHEVILLE PARCEL

BEGINNING at the southwest corner of the property of the State of North Carolina as described in Deed Book 917, Page 605 said point being an iron pipe in the east right-of-way of Fanning Bridge Road (SR 3526); thence N84°19'30"E 1251.01 feet to a concrete monument on the right-of-way of Interstate 26; then with the right-of-way of Interstate 26 the following four calls: S14°24'34"E 355.92 feet to a concrete monument, S11°38'02"W 669.75 feet to a concrete monument, S14°15'41"E 398.94 feet to a concrete monument, and S51°17'26"E 183.08 feet to an iron pipe; then leaving the right-of-way of Interstate 26 and running with the west line of the property now or formerly owned by Sybil Lance et al S03°49'11"W 347.22 feet to an iron pipe; then S86°52'48"W 1020.44 feet to an iron pipe; then N03°07'12"W 400.00 feet to an iron pipe; then S86°52'48"W 300.00 feet; then N03°07'12"W 1399.12 feet with the east right-of-way of Fanning Bridge Road (SR 3526) to the beginning containing 50.00 acres. Being a portion of the property conveyed to the City of Asheville by City Loans Incorporated by deed dated April 4, 1958, and recorded in the Henderson County Register of Deeds office in Deed book 366, Page 607.

SOUTH PARCEL

BEGINNING at an iron pin which is located South 21 degrees 36 minutes 41 seconds West 612.00 feet (Ground) and South 23 degrees 38 minutes 51 seconds West 622.53 feet (Grid) from NCGS Monument "Rest" (NC Grid Coordinates(NAD 83)) N191587.805m and E289213.047m, and runs thence from said Beginning point on a curve to the right having a radius of 663.94 feet, a chord bearing of South 59 degrees 23 minutes 33 seconds West 413.45 feet and an arc length of 420.44 feet to an iron pin; thence South 79 degrees 32 minutes 36 seconds West 342.65 feet to an iron pin; thence North 64 degrees 21 minutes 42 seconds West, crossing an iron pin at 52 feet, a total distance of 182.47 feet to a right-of-way monument, said right-of-way monument being located North 30 degrees 44 minutes 38 seconds West 216.86 feet from a County Line monument; thence North 02 degrees 48 minutes 04 seconds West, crossing an iron pin at 182.64 feet, a total distance of 445.09 feet to an iron pin thence North 25 degrees 31 minutes 19 seconds West 89.43 feet to an iron pin located in the eastern margin of the 100' right of way of Airport Road; thence with the eastern margin of said right-of-way, North 03 degrees 07 minutes 12 seconds West 63.53 feet to an iron pin; thence North 86 degrees 52 minutes 48 seconds East 300 feet to an iron pin; thence South 86 degrees 52 minutes 48 seconds East 981.81 feet to the point and place of Beginning, containing 8.31 acres, more or less, and being shown on a survey dated November 17, 1995, last revised December 1, 1995. Entitled "Survey of Addition to WNC Agricultural Center," prepared by Hutchison-Biggs & Associates, Inc. (B95-885).

SECTION 2.2.(b) The property described in subsection (a) of this section, and any other property contiguous to that property and which is acquired by the State of North Carolina to be part of the Western North Carolina Agricultural Center, is not subject to regulation by the City of Asheville under Article 19 (Planning and Regulation of Development) of Chapter 160A of the General Statutes and instead shall be subject to ordinances of Buncombe County under Article 18 (Planning and Regulation of Development) of Chapter 153A of the General Statutes. This subsection is effective on the effective date of an ordinance adopted by Buncombe County to make the area under subsection (a) of this section subject to the zoning ordinance of that county.

PART III. EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-122

H.B. 956

AN ACT RELATING TO THE USE OF OPEN SPACE FUNDS FOR JOHNSTON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-331(c) reads as rewritten:

"(c) A subdivision control ordinance may provide that a developer may provide funds to the county whereby the county may acquire recreational land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than one subdivision or development within the immediate area. All funds received by the county under this paragraph shall be used solely for the acquisition or development of recreation, park, or open space sites.

The ordinance may provide that in lieu of required street construction, a developer may provide funds to be used for the development of roads to serve the occupants, residents, or invitees of the subdivision or development. All funds received by the county under this ~~section~~ paragraph shall be transferred to the municipality to be used solely for the development of roads, including design, land acquisition, and construction. Any municipality receiving funds from a county under this section is authorized to expend such funds outside its corporate limits for the purposes specified in the agreement between the municipality and the county. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the governing body of the county determines that a combination is in the best interest of the citizens of the area to be served.

The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with county plans, policies, and standards. To assure compliance with these and other ordinance requirements, the ordinance may provide for performance guarantees to assure successful completion of required improvements. If a performance guarantee is required, the county shall provide a range of options of types of performance guarantees, including, but not limited to, surety bonds or letters of credit, from which the developer may choose. For any specific development, the type of performance guarantee from the range specified by the county shall be at the election of the developer.

The ordinance may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the board of commissioners or the planning board. For the authorization to reserve school sites to be effective, the board of commissioners or

planning board, before approving a comprehensive land use plan, shall determine jointly with the board of education with jurisdiction over the area the specific location and size of each school site to be reserved, and this information shall appear in the plan. Whenever a subdivision that includes part or all of a school site to be reserved under the plan is submitted for approval, the board of commissioners or the planning board shall immediately notify the board of education. The board of education shall promptly decide whether it still wishes the site to be reserved and shall notify the board of commissioners or planning board of its decision. If the board of education does not wish the site to be reserved, no site may be reserved. If the board of education does wish the site to be reserved, the subdivision may not be approved without the reservation. The board of education must acquire the site within 18 months after the date the site is reserved, either by purchase or by exercise of the power of eminent domain. If the board of education has not purchased the site or begun proceedings to condemn the site within the 18 months, the subdivider may treat the land as freed of the reservation."

SECTION 2. This act applies to Johnston County only.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-123

H.B. 1200

AN ACT TO AMEND THE PROVISIONS OF THE WINSTON-SALEM FIREMEN'S RETIREMENT FUND AND TO REPEAL THE PROVISIONS ESTABLISHING THE NEW BERN FIREMEN'S SUPPLEMENTAL RETIREMENT FUND.

The General Assembly of North Carolina enacts:

SECTION 1.(a) 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, S.L. 2006-121, and S.L. 2008-98, 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 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;~~ July 1, 2012, 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.~~ amount determined by the Trustees acting upon the advice of the Association's actuary. 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, 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 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.

(f) Notwithstanding any other provisions of this act, the following provisions apply in order to comply with the requirements of the Heroes Earnings Assistance and Relief Tax Act of 2008:

- (1) Death benefits. If a member of the Association dies on or after January 1, 2007, while performing qualified military service as defined in section 414(u) of the Internal Revenue Code, the member's beneficiary is entitled to any additional benefits, other than benefit accruals relating to the period of qualified military service, provided under the Association as if the member had resumed employment and then terminated on account of death. The Association shall also credit that member's qualified military service for vesting purposes as though the member had resumed employment immediately prior to the member's death.
- (2) Differential wage payments. For years beginning after December 31, 2008:
 - a. An individual receiving a differential wage payment as defined in section 3401(h)(2) of the Internal Revenue Code shall be treated as an employee of the employer making the payment.
 - b. The differential wage payment shall be treated as compensation.
 - c. The Association shall not be treated as failing to meet the requirements of any provision described in section 414(u)(1)(C) of the Internal Revenue Code by reason of any contribution or benefit that is based on the differential wage payment, but only if the following apply:
 1. All employees of the employer performing services described in section 3401(h)(2)(A) of the Internal Revenue Code are entitled to receive differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code on reasonably equivalent terms; and
 2. All employees, if eligible to participate in a retirement plan maintained by the employer, are entitled to make contributions or receive benefits based upon the payments on reasonably equivalent terms, taking into account the provisions of sections 4110(b)(3), (4), and (5) of the Internal Revenue Code.

"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 1/2; 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 1/2. 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 1.(b) None of the provisions of Section 1(a) 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 2.(a) Chapter 551 of the 1983 Session Laws is repealed.

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

SECTION 3. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-124

H.B. 1169

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF BURGAW, AND CONCERNING COUNTY ZONING OF LOCAL DEANNEXED AREAS.

The General Assembly of North Carolina enacts:

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

All that land located in Burgaw Township, Pender County, State of North Carolina, adjoining the lands of James Henry (Bud) Moore, Marion Lane, Roy Lanier, Acme Wood Corporation, and others and being more particularly described as follows:

TRACT I

Beginning at a concrete location corner 3.4 feet from center of a cypress stump on the east side of the run of Burgaw Creek, J. H. (Bud) Moore's corner; thence his line and ditch North 65 degrees 09 minutes East 660.00 feet to a concrete monument; thence North 74 degrees 14 minutes East 1155.00 feet to a concrete monument; thence 77 degrees 09 minutes East 686.0 feet to an iron stake; thence North 88 degrees 58 minutes East 825.0 feet to an iron stake; thence North 84 degrees 51 minutes 1337.3 feet to two iron pipes at a ditch intersection; thence the same course North 84 degrees 51 minutes East 1367.5 feet to a plowed fire lane at a point South 62 degrees 25 minutes East 304.2 feet from a marked corner; thence with said fire lane South 62 degrees 25 minutes East 356.3 feet to a marked corner; thence South 51 degrees 05 minutes East 982.3 feet to a corner; thence South 12 degrees 15 minutes East 1072.6 feet to a pine stump with gum pointers; thence with line of Acme Wood Corporation, South 9 degrees 56 minutes West 2920.4 feet to a "D.L.G." stone; thence South 89 degrees 42 minutes West 455.4 feet to a concrete monument; thence North 86 degrees 30 minutes West 1483.35 feet to a pipe at a field cross ditch; thence North 85 degrees 50 minutes West 1333.3 feet to a concrete monument; thence the line of Marion Lane North 4 degrees 08 minutes East 1654.5 feet to a point upon the present avenue, leading to the house; thence with the avenue (Lane's line) North 85 degrees 58 minutes West 2845.9 feet to a spike in center of bridge over Burgaw Creek (Public Paved Road bridge); thence up the run of Burgaw Creek the following traversed courses and distances:

- (1) North 16 degrees 02 minutes East 323.1 feet;
- (2) North 09 degrees 33 minutes West 204.2 feet;
- (3) North 22 degrees 55 minutes West 205.8 feet;
- (4) North 87 degrees 36 minutes West 183.0 feet;
- (5) North 27 degrees 18 minutes West 153.6 feet;
- (6) South 89 degrees 24 minutes West 71.7 feet;
- (7) North 3 degrees 32 minutes East 149.9 feet;
- (8) North 18 degrees 18 minutes West 160.5 feet;
- (9) North 76 degrees 04 minutes West 75.2 feet;
- (10) North 33 degrees 16 minutes West 170.2 feet;
- (11) North 56 degrees 37 minutes West 115.9 feet;
- (12) North 24 degrees 47 minutes West 87.9 feet;
- (13) North 60 degrees 48 minutes West 135.9 feet; and
- (14) North 48 degrees 01 minutes West 191.6 feet to the point of Beginning, containing 523.99 acres, more or less, and described according to map of M.R. Walton, Registered Surveyor, entitled "Map of Survey for Teal A. Rivenbark" Burgaw Township, Pender County, North Carolina dated May-June 1962, reference to which is hereby made for a more particular description.

TRACT II

Beginning at a point in a fire lane which is South 62 degrees 25 minutes East 304.2 feet from a marked corner of Corbett Package Company, also being the most Northeasterly corner of the above "First Tract" herein and running thence with the fire line South 62 degrees 25 minutes East 356.3 feet to a marked corner; thence South 51 degrees 05 minutes East 982.3 feet to a corner; thence South 12 degrees 15 minutes East 1072.5 feet to a pine stump with gum pointers; thence leaving the lines of "First Tract" herein North 9 degrees 56 minutes East 2005.1 feet to a stake; thence South 84 degrees 51 minutes West 1649.7 feet to the point of Beginning, containing 23.65 acres, more or less, and described according to map of M.R. Walton, Registered Surveyor, dated May-June 1962 entitled "Map of Survey for Teal A. Rivenbark", Burgaw Township, Pender County, North Carolina, reference to which is hereby made for a more particular description.

Subject however, to the right-of-way in favor of Four County Electric Membership Corporation recorded in Book 226, at Page 282 of the Pender County Registry.

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

SECTION 3. Notwithstanding the provisions of G.S. 160A-360(f1) or G.S. 160A-364, for any area affected by an annexation ordinance listed in S.L. 2012-3, the county board of commissioners may, by ordinance, reestablish any county zoning or other land use regulation under Article 19 of Chapter 160A of the General Statutes that was in effect on the day prior to the effective date of the annexation ordinance repealed by S.L. 2012-3.

SECTION 4. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-125

H.B. 1170

AN ACT TO AMEND THE PROCESS BY WHICH MEMBERS OF THE PENDER COUNTY BOARD OF ALCOHOLIC CONTROL ARE SELECTED; TO REMOVE THE REQUIREMENT THAT THE PENDER COUNTY BOARD OF ALCOHOLIC CONTROL LOCATE ONE OR MORE STORES IN THE TOWNS OF BURGAW AND ATKINSON; AND TO AMEND THE DISTRIBUTION OF CERTAIN NET PROFITS FROM THE PENDER COUNTY BOARD OF ALCOHOLIC CONTROL.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4(c) of Chapter 50 of the 1963 Session Laws, as rewritten by Section 1 of Chapter 778 of the 1963 Session Laws, reads as rewritten:

"There shall be created a Pender County Board of Alcoholic Control to consist of five members. The Chairman shall be G. C. Edmonds, who shall serve as such and as a board member until July 1, 1965. The four other members shall be selected by ~~a majority vote in a joint meeting of the Board of County Commissioners of Pender County, the Pender County Board of Health, the Pender County Board of Education, and the Pender County Board of Public Welfare, and each member present shall have only one vote notwithstanding the fact that there may be instances in which some members are members of another board.~~the Pender County Board of Commissioners. Two of said four Board members shall be chosen to serve for a period of three (3) years and two of said four members shall be chosen to serve for a period of two (2) years. All terms shall begin with the date of appointment and successors in office shall serve for a period of three (3) years, and be appointed in the same manner as herein provided. Upon the expiration of the term of G. C. Edmonds, his successor shall be chosen by the same selecting body, and in the same manner, as the four other members of the Board, and his successor shall serve for a three-year term. Vacancies in the Board shall be filled for the unexpired term by the aforesaid selecting body. The members of said Board shall be well known for their good character, ability and business judgment. Insofar as the provisions of this Section are inconsistent with the provisions of G. S. 18-41, the provisions of this Section are controlling in Pender County."

SECTION 2. Section 5 of Chapter 50 of the 1963 Session Laws reads as rewritten:

"**Sec. 5.** The Pender County Board of Alcoholic Control shall have all the powers and duties prescribed for County Boards of Alcoholic Control by G. S. 18-45, and shall be subject to the powers and authority of the State Board of Alcoholic Control to the same extent as are County Boards of Alcoholic Control set forth in G. S. 18-39. The Pender County Board of Alcoholic Control shall be subject to the provisions of Article 3, Chapter 18, of the General Statutes except to the extent that such provisions may be in conflict with the terms of this Act. Wherever the word "County" Board of Alcoholic Control appears in said Article, it shall apply to and include the Pender County Board of Alcoholic Control; provided, however, that the

~~board shall locate one or more stores in the towns of Burgaw and Atkinson; provided further that the board may locate one or more stores on Topsail Island, or any other location it may deem advisable, may locate, open, and close ABC stores within its jurisdiction pursuant to the provisions of G.S. 18B-801."~~

SECTION 3. Section 6 of Chapter 50 of the 1963 Session Laws, as rewritten by Section 1 of the 1973 Session Laws, reads as rewritten:

"**Sec. 6.** After deducting fifteen percent (15%) of total net profits to be expended for law enforcement and after providing for expenditure of a sum not less than two ~~per cent~~percent (2%) nor more than five ~~per cent~~percent (5%) of total future net profits, and current funds, to provide facilities, material for the care, education, rehabilitation, treatment of alcoholic, mental patients, for education of the general public on the excessive use of alcoholic beverages, or distribution to various Pender County Rescue Squads, at intervals and in amounts determined by the Pender County Board of Alcoholic Control, and after further payment to the general fund of Pender County of five ~~per cent~~percent (5%) of total net profits for use in mosquito control, the remaining total net profits from Alcoholic Beverage Control Stores shall, ~~on a quarterly basis, pursuant to G.S. 18B-805(e), be paid over on a quarterly basis as follows: Seventy five per cent (75%) sixty five percent (65%) to the general fund of Pender County, and the remaining twenty five per cent (25%) to the respective municipalities in which Alcoholic Beverage Control Stores are located, based on gross sales of each respective store. thirty five percent (35%) shall be distributed as follows:~~

- (1) Seventy percent (70%) of the remaining thirty-five percent (35%) shall be distributed to the Town of Burgaw and the Town of Surf City as follows:
 - a. Forty percent (40%) of the seventy percent (70%) to the Town of Burgaw.
 - b. Sixty percent (60%) of the seventy percent (70%) to the Town of Surf City.
- (2) Thirty percent (30%) of the remaining thirty-five percent (35%) shall be distributed to each of the following municipalities according to each municipality's percentage of population within Pender County, as determined by the last decennial federal census:
 - a. Town of Atkinson.
 - b. Village of St. Helena.
 - c. Town of Topsail Beach.
 - d. Town of Watha."

SECTION 4. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law on the date it was ratified.

Session Law 2012-126

H.B. 438

AN ACT TO PROMOTE EFFICIENCY AND EFFECTIVENESS IN THE ADMINISTRATION OF HUMAN SERVICES AND TO STRENGTHEN THE LOCAL PUBLIC HEALTH INFRASTRUCTURE BY ESTABLISHING A PUBLIC HEALTH IMPROVEMENT INCENTIVE PROGRAM AND ENSURING THE PROVISION OF THE TEN ESSENTIAL PUBLIC HEALTH SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-77 reads as rewritten:

"§ 153A-77. **Authority of boards of commissioners in certain counties over commissions, boards, agencies, etc.**

(a) In the exercise of its jurisdiction over commissions, boards and agencies, the board of county commissioners may assume direct control of any activities theretofore conducted by

or through any commission, board or agency by the adoption of a resolution assuming and conferring upon the board of county commissioners all powers, responsibilities and duties of any such commission, board or agency. This ~~subsection~~section shall apply to the board of health, the social services board, area mental health, developmental disabilities, and substance abuse area board ~~and~~or any other commission, board or agency appointed by the board of county commissioners or acting under and pursuant to authority of the board of county commissioners of said ~~county~~county ~~except as provided in G.S. 153A-76.~~ A board of county commissioners exercising the power and authority under this subsection may, notwithstanding G.S. 130A-25, enforce public health rules adopted by the board through the imposition of civil penalties. If a public health rule adopted by a board of county commissioners imposes a civil penalty, the provisions of G.S. 130A-25 making its violation a misdemeanor shall not be applicable to that public health rule unless the rule states that a violation of the rule is a misdemeanor. The board of county commissioners may exercise the power and authority herein conferred only after a public hearing held by said board pursuant to 30 days' notice of said public hearing given in a newspaper having general circulation in said county.

The board of county commissioners may also appoint advisory boards, committees, councils and agencies composed of qualified and interested county residents to study, interpret and develop community support and cooperation in activities conducted by or under the authority of the board of county commissioners of said county.

A board of county commissioners that has assumed direct control of a local health board after January 1, 2012, and that does not delegate the powers and duties of that board to a consolidated health service board shall appoint an advisory committee consistent with the membership described in G.S. 130A-35.

(b) In the exercise of its jurisdiction over commissions, boards, and agencies, the board of county commissioners of a county having a county manager pursuant to G.S. 153A-81 may:

- (1) Consolidate ~~the provision~~certain provisions of human services in the county under the direct control of a human services director appointed and supervised by the county manager in accordance with subsection (e) of this section;
- (2) Create a consolidated human services board having the powers conferred by subsection (c) of this section;
- (3) Create a consolidated county human services agency having the authority to carry out the functions of any combination of commissions, boards, or agencies appointed by the board of county commissioners or acting under and pursuant to authority of the board of county commissioners, including the local health department, the county department of social services, ~~and~~or the area mental health, developmental disabilities, and substance abuse services authority; and
- (4) Assign other county human services functions to be performed by the consolidated human services agency under the direction of the human services director, with policy-making authority granted to the consolidated human services board as determined by the board of county commissioners.

(c) A consolidated human services board appointed by the board of county commissioners shall serve as the policy-making, rule-making, and administrative board of the consolidated human services agency. The consolidated human services board shall be composed of no more than 25 members. The composition of the board shall reasonably reflect the population makeup of the county and shall include:

- (1) Eight persons who are consumers of human services, public advocates, or family members of clients of the consolidated human services agency, including: one person with mental illness, one person with a developmental disability, one person in recovery from substance abuse, one family member of a person with mental illness, one family member of a person with a

developmental disability, one family member of a person with a substance abuse problem, and two consumers of other human services.

- (1a) Notwithstanding subdivision (1) of this subsection, a consolidated human services board not exercising powers and duties of an area mental health, developmental disabilities, and substance abuse services board shall include four persons who are consumers of human services.
- (2) Eight persons who are professionals, each with qualifications in one of these categories: one psychologist, one pharmacist, one engineer, one dentist, one optometrist, one veterinarian, one social worker, and one registered nurse.
- (3) Two physicians licensed to practice medicine in this State, one of whom shall be a psychiatrist.
- (4) One member of the board of county commissioners.
- (5) Other persons, including members of the general public representing various occupations.

The board of county commissioners may elect to appoint a member of the consolidated human services board to fill concurrently more than one category of membership if the member has the qualifications or attributes of more than one category of membership.

All members of the consolidated human services board shall be residents of the county. The members of the board shall serve four-year terms. No member may serve more than two consecutive four-year terms. The county commissioner member shall serve only as long as the member is a county commissioner.

The initial board shall be appointed by the board of county commissioners upon the recommendation of a nominating committee comprised of members of the preconsolidation board of health, social services board, and area mental health, developmental disabilities, and substance abuse services board. In order to establish a uniform staggered term structure for the board, a member may be appointed for less than a four-year term. After the subsequent establishment of the board, its board shall be appointed by the board of county commissioners from nominees presented by the human services board. Vacancies shall be filled for any unexpired portion of a term.

A chairperson shall be elected annually by the members of the consolidated human services board. A majority of the members shall constitute a quorum. A member may be removed from office by the county board of commissioners for (i) commission of a felony or other crime involving moral turpitude; (ii) violation of a State law governing conflict of interest; (iii) violation of a written policy adopted by the county board of commissioners; (iv) habitual failure to attend meetings; (v) conduct that tends to bring the office into disrepute; or (vi) failure to maintain qualifications for appointment required under this subsection. A board member may be removed only after the member has been given written notice of the basis for removal and has had the opportunity to respond.

A member may receive a per diem in an amount established by the county board of commissioners. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county board of commissioners. The board shall meet at least quarterly. The chairperson or three of the members may call a special meeting.

- (d) The consolidated human services board shall have authority to:
- (1) Set fees for departmental services based upon recommendations of the human services director. Fees set under this subdivision are subject to the same restrictions on amount and scope that would apply if the fees were set by a county board of health, a county board of social services, or a mental health, developmental disabilities, and substance abuse area authority.
- (2) Assure compliance with laws related to State and federal programs.
- (3) Recommend creation of local human services programs.
- (4) Adopt local health regulations and participate in enforcement appeals of local regulations.

- (5) Perform regulatory health functions required by State law.
- (6) Act as coordinator or agent of the State to the extent required by State or federal law.
- (7) Plan and recommend a consolidated human services budget.
- (8) Conduct audits and reviews of human services programs, including quality assurance activities, as required by State and federal law or as may otherwise be necessary periodically.
- (9) Advise local officials through the county manager.
- (10) Perform public relations and advocacy functions.
- (11) Protect the public health to the extent required by law.
- (12) Perform comprehensive mental health services ~~planning~~planning if the county is exercising the powers and duties of an area mental health, developmental disabilities, and substance abuse services board under the consolidated human services board.
- (13) Develop dispute resolution procedures for human services contractors and clients and public advocates, subject to applicable State and federal dispute resolution procedures for human services programs, when applicable.

Except as otherwise provided, the consolidated human services board shall have the powers and duties conferred by law upon a board of health, a social services board, and an area mental health, developmental disabilities, and substance abuse services board.

Local employees who serve as staff of a consolidated county human services agency are subject to county personnel policies and ordinances only and are not subject to the provisions of the State Personnel Act. Act, unless the county board of commissioners elects to subject the local employees to the provisions of that Act. All consolidated county human services agencies shall comply with all applicable federal laws, rules, and regulations requiring the establishment of merit personnel systems.

(e) The human services director of a consolidated county human services agency shall be appointed and dismissed by the county manager with the advice and consent of the consolidated human services board. The human services director shall report directly to the county manager. The human services director shall:

- (1) Appoint staff of the consolidated human services agency with the county manager's approval.
- (2) Administer State human services programs.
- (3) Administer human services programs of the local board of county commissioners.
- (4) Act as secretary and staff to the consolidated human services board under the direction of the county manager.
- (5) Plan the budget of the consolidated human services agency.
- (6) Advise the board of county commissioners through the county manager.
- (7) Perform regulatory functions of investigation and enforcement of State and local health regulations, as required by State law.
- (8) Act as an agent of and liaison to the State, to the extent required by law.
- (9) Appoint, with the county manager's approval, an individual that meets the requirements of G.S. 130A-40(a).

Except as otherwise provided by law, the human services director or the director's designee shall have the same powers and duties as a social services director, a local health director, ~~and~~ or a director of an area mental health, developmental disabilities, and substance abuse services authority.

(f) ~~This section applies to counties with a population in excess of 425,000.~~

SECTION 2. G.S. 153A-76 reads as rewritten:

"§ 153A-76. **Board of commissioners to organize county government.**

The board of commissioners may create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the county government, may impose ex

officio the duties of more than one office on a single officer, may change the composition and manner of selection of boards, commissions, and agencies, and may generally organize and reorganize the county government in order to promote orderly and efficient administration of county affairs, subject to the following limitations:

- (1) The board may not abolish an office, position, department, board, commission, or agency established or required by law.
- (2) The board may not combine offices or confer certain duties on the same officer when this action is specifically forbidden by law.
- (3) The board may not discontinue or assign elsewhere a function or duty assigned by law to a particular office, position, department, board, commission, or agency.
- (4) The board may not change the composition or manner of selection of a local board of education, ~~the board of health, the board of social services,~~ the board of elections, or the board of alcoholic beverage control.
- (5) The board may not abolish nor consolidate into a human services agency a hospital authority assigned to provide public health services pursuant to Section 12 of S.L. 1997-502 or a public health authority assigned the power, duties, and responsibilities to provide public health services as outlined in G.S. 130A-1.1.
- (6) A board may not consolidate an area mental health, developmental disabilities, and substance abuse services board into a consolidated human services board. The board may not abolish an area mental health, developmental disabilities, and substance abuse services board, except as provided in Chapter 122C of the General Statutes. This subdivision shall not apply to any board that has exercised the powers and duties of an area mental health, developmental disabilities, and substance abuse services board as of January 1, 2012.
- (7) The board may not abolish, assume control over, or consolidate into a human services agency a public hospital as defined in G.S. 159-39(a) pursuant to G.S. 153A-77."

SECTION 3. Article 2 of Chapter 130A of the General Statutes is amended by adding the following new sections to read:

"§ 130A-34.3. Incentive program for public health improvement.

(a) In order to promote efficiency and effectiveness of the public health delivery system, the Department shall establish a Public Health Improvement Incentive Program. The Program shall provide monetary incentives for the creation and expansion of multicounty local health departments serving a population of not less than 75,000.

(b) The Commission shall adopt rules to implement the Public Health Improvement Incentive Program.

"§ 130A-34.4. Strengthening local public health infrastructure.

(a) By July 1, 2014, in order for a local health department to be eligible to receive State and federal public health funding from the Division of Public Health, the following criteria shall be met:

- (1) A local health department shall obtain and maintain accreditation pursuant to G.S. 130A-34.1.
- (2) The county or counties comprising the local health department shall maintain operating appropriations to local health departments from local ad valorem tax receipts at levels equal to amounts appropriated in State fiscal year 2010-2011.

(b) The criteria established in subsection (a) of this section shall be in addition to any other funding criteria established by State or federal law."

SECTION 4. G.S. 130A-1.1(b) reads as rewritten:

"(b) A local health department shall ensure that the following 10 essential public health services are available and accessible to the population in each county served by the local health department:

- (1) Monitoring health status to identify community health problems.
- (2) Diagnosing and investigating health hazards in the community.
- (3) Informing, educating, and empowering people about health issues.
- (4) Mobilizing community partnerships to identify and solve health problems.
- (5) Developing policies and plans that support individual and community health efforts.
- (6) Enforcing laws and regulations that protect health and ensure safety.
- (7) Linking people to needed personal health care services and assuring the provision of health care when otherwise unavailable.
- (8) Assuring a competent public health workforce and personal health care workforce.
- (9) Evaluating effectiveness, accessibility, and quality of personal and population-based health services.
- (10) Conducting research.

~~As used in this section, the term "essential public health services" means those services that the State shall ensure because they are essential to promoting and contributing to the highest level of health possible for the citizens of North Carolina. The Departments of Environment and Natural Resources and Health and Human Services shall attempt to ensure within the resources available to them that the following essential public health services are available and accessible to all citizens of the State, and shall account for the financing of these services:~~

- ~~(1) Health Support:

 - a. Assessment of health status, health needs, and environmental risks to health;
 - b. Patient and community education;
 - c. Public health laboratory;
 - d. Registration of vital events;
 - e. Quality improvement; and~~
- ~~(2) Environmental Health:

 - a. Lodging and institutional sanitation;
 - b. On-site domestic sewage disposal;
 - c. Water and food safety and sanitation; and~~
- ~~(3) Personal Health:

 - a. Child health;
 - b. Chronic disease control;
 - c. Communicable disease control;
 - d. Dental public health;
 - e. Family planning;
 - f. Health promotion and risk reduction;
 - g. Maternal health; and~~
- ~~(4) Public Health Preparedness.~~

~~The Commission for Public Health shall determine specific services to be provided under each of the essential public health services categories listed above."~~

SECTION 5. The Program Evaluation Division of the General Assembly shall study the feasibility of the transfer of all functions, powers, duties, and obligations vested in the Division of Public Health in the Department of Health and Human Services to the University of North Carolina Healthcare System and/or the School of Public Health at The University of North Carolina and submit its findings and recommendations to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Oversight Committee on Health and Human Services no later than February 1, 2013.

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

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 12:20 p.m. on the 29th day of June, 2012.

Session Law 2012-127

H.B. 512

AN ACT TO AMEND THE LAWS GOVERNING RENDERING PLANTS AND OPERATIONS, TO REQUIRE CERTIFICATION OF GREASE OWNERSHIP BY COLLECTORS OF WASTE KITCHEN GREASE, AND TO CREATE CRIMINAL PENALTIES RELATED TO WASTE KITCHEN GREASE.

The General Assembly of North Carolina enacts:

SECTION 1. The title of Article 14A of Chapter 106 of the General Statutes reads as rewritten:

"Article 14A.

Licensing and Regulation of Rendering ~~Plants and Plants~~, Rendering ~~Operations~~, Operations, and Waste Kitchen Grease Collection."

SECTION 2. G.S. 106-168.1 is amended by adding a new subdivision to read as follows:

"(6) "Waste kitchen grease" means animal fats or vegetable oils that have been used, and will not be reused, for cooking in a food establishment. "Waste kitchen grease" does not include grease septage as defined in G.S. 130A-290."

SECTION 3. G.S. 106-168.5 reads as rewritten:

"§ 106-168.5. **Duties of Commissioner upon receipt of application; inspection committee.**

Upon receipt of the application, the Commissioner shall promptly cause the rendering plant and equipment, or the plans, specifications, and selected site, of the applicant to be inspected by an inspection committee hereinafter called the "committee," which shall be composed of three members: One member who shall be designated by the Commissioner of Agriculture and who shall be an employee of the Department of Agriculture and Consumer Services, one member who shall be designated by the Secretary of Health and Human Services and who shall be an employee of the Department of Health and Human Services, and one member who shall be designated by the ~~director~~ board of directors of the North Carolina ~~Division of the Southeastern~~ Renderers Association, and who shall be a person having practical knowledge of rendering operations. Each member may be designated and relieved from time to time at the discretion of the designating authority. No State employee designated as a member of the committee shall receive any additional compensation therefor and no compensation shall be paid by the State to any other member."

SECTION 4. G.S. 106-168.8 is amended by adding a new subdivision to read:

"§ 106-168.8. **Minimum standards for conducting rendering operations.**

The following minimum standards shall be required for all rendering operations subject to the provisions of this Article:

...

(8) Proof of general liability insurance of one million dollars (\$1,000,000) shall be made in a manner satisfactory to the Commissioner."

SECTION 5. Article 14A of Chapter 106 of the General Statutes is amended by adding a new section to read as follows:

"**§ 106-168.14A. Collectors of waste kitchen grease subject to certain provisions.**

(a) For purposes of this section, "collector of waste kitchen grease" means any person who collects waste kitchen grease for the purpose of selling the same to any renderer or other person for further processing.

(b) Any collector of waste kitchen grease who sells the waste kitchen grease collected shall provide the purchaser with a statement of ownership setting forth the lawful ownership of the waste kitchen grease sold to such purchaser."

SECTION 6. Article 16 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-79.2. Waste kitchen grease; unlawful acts and penalties.

- (a) It shall be unlawful for any person to do any of the following:
- (1) Take and carry away, or aid in taking or carrying away, any waste kitchen grease container or the waste kitchen grease contained therein, which container bears a notice that unauthorized removal is prohibited without written consent of the owner of the container.
 - (2) Intentionally contaminate or purposely damage any waste kitchen grease container or grease therein.
 - (3) Place a label on a waste kitchen grease container knowing that it is owned by another person in order to claim ownership of the container.
- (b) Any person who violates subsection (a) of this section shall be penalized as follows:
- (1) If the value of the waste kitchen grease container, or the container and the waste kitchen grease contained therein, is one thousand dollars (\$1,000) or less, it shall be a Class 1 misdemeanor.
 - (2) If the value of the waste kitchen grease container, or the container and the waste kitchen grease contained therein, is more than one thousand dollars (\$1,000), it shall be a Class H felony.
- (c) A container in which waste kitchen grease is deposited that bears a name on the container shall be presumed to be owned by that person named on the container.
- (d) As used in this section, "waste kitchen grease" has the same meaning as in G.S. 106-168.1."

SECTION 7. This act becomes effective January 1, 2013, and Section 6 applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 25th day of June, 2012.

Became law upon approval of the Governor at 12:22 p.m. on the 29th day of June, 2012.

Session Law 2012-128

S.B. 347

AN ACT RELATING TO REASONABLE SAFETY AND CONTAINMENT MEASURES FOR MANAGING PATIENTS PENDING INVOLUNTARY COMMITMENT PLACEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 7 of Article 5 of Chapter 122C of the General Statutes is amended by adding a new section to read:

"§ 122C-263.2. Mental health crisis management: reasonable safety and containment measures.

An acute care hospital licensed under Chapter 131E, a department thereof, or other site of first examination that that uses reasonable safety or containment measures and precautions to manage the population of patients being held under appropriate supervision pending involuntary commitment placement and that does not otherwise operate as a licensable mental health facility shall not be deemed to be acting as a 24-hour facility; operating a psychiatric, substance abuse, or special care unit; offering psychiatric or substance abuse services; or acting as a licensed or unlicensed mental health facility. Actions considered to be reasonable safety or containment measures and precautions shall include the following: (i) altering rooms or removing items to prevent injury; (ii) placing patients in a consolidated location of the hospital;

(iii) improvements to security and protection of staff; and (iv) any other reasonable measures that do not violate applicable law.

Reasonable safety or containment measures and precautions shall not be considered a violation of rules regulating acute care hospitals or mental health facilities. Placing patients in a consolidated location of the hospital pursuant to this subsection shall not constitute a special care unit. Nothing in this subsection relieves an acute care hospital or other site of first examination from complying with all other applicable laws or rules."

SECTION 2. The Department of Health and Human Services shall study LME efforts and activities (i) to reduce the need for acute care inpatient admissions for patients with a primary diagnosis of a mental health disorder, developmental disability, or substance abuse disorder and (ii) to reduce the number of patients requiring three or more episodes of crisis services. For the purpose of this section, crisis services include facility-based crisis services, mobile crisis services, and emergency department services. As part of their efforts, LMEs shall ensure appropriate levels of community-based care, including assessment management, boarding, and placement of individuals during the involuntary commitment process. The Department shall report its findings to the General Assembly beginning October 1, 2012, and quarterly thereafter. This section shall expire December 31, 2013.

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, 2012.

Became law upon approval of the Governor at 12:24 p.m. on the 29th day of June, 2012.

Session Law 2012-129

S.B. 656

AN ACT TO ENSURE THAT PATIENTS HAVE THE RIGHT TO CHOOSE THEIR PHYSICAL THERAPISTS UNDER THEIR HEALTH BENEFIT PLANS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-50-30 reads as rewritten:

"§ 58-50-30. **Right to choose services of optometrist, podiatrist, licensed clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, chiropractor, physical therapist, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, licensed marriage and family therapist, or physician assistant.**

(a) Repealed by Session Laws 2001-297, s. 1, effective January 1, 2001.

(a1) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides for coverage for, payment of, or reimbursement for any service rendered in connection with a condition or complaint that is within the scope of practice of a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly licensed physical therapist, a duly licensed clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, a duly licensed marriage and family therapist, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to coverage of, payment of, or reimbursement for the services, whether the services be performed by a duly licensed physician, or a provider listed in this subsection, notwithstanding any provision contained in the plan or policy limiting access to the providers. The policyholder, insured, or beneficiary shall have the right to choose the provider of services notwithstanding any provision to the contrary in any other statute, subject to the utilization review, referral, and prior approval requirements of the plan that apply to all providers for that service; provided that:

- (1) In the case of plans that require the use of network providers as a condition of obtaining benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network; and
- (2) In the case of plans that require the use of network providers as a condition of obtaining a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network in order to obtain the higher level of benefits.

(a2) Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for certification of disability that is within the scope of practice of a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly licensed physical therapist, a duly licensed clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, a duly licensed marriage and family therapist, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the disability whether the disability be certified by a duly licensed physician, or a provider listed in this subsection, notwithstanding any provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of the services notwithstanding any provision to the contrary in any other statute; provided that for plans that require the use of network providers either as a condition of obtaining benefits under the plan or policy or to access a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network, subject to the requirements of the plan or policy.

...

(c4) For purposes of this section, a "duly licensed marriage and family therapist" is a person licensed by the North Carolina Marriage and Family Therapy Licensure Board pursuant to Article 18C of Chapter 90 of the General Statutes.

(c5) For purposes of this section, a "duly licensed physical therapist" is a person licensed by the North Carolina Board of Physical Therapy Examiners pursuant to Article 18B of Chapter 90 of the General Statutes.

...."

SECTION 2. G.S. 135-48.51(12) reads as rewritten:

"§ 135-48.51. Coverage and operational mandates related to Chapter 58 of the General Statutes.

The following provisions of Chapter 58 of the General Statutes apply to the State Health Plan:

...

- (12) G.S. 58-50-30, Right to choose services of optometrist, podiatrist, licensed clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, physical therapist, chiropractor, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, licensed marriage and family therapist, or physician assistant.

...."

SECTION 3. This act becomes effective October 1, 2012.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Became law upon approval of the Governor at 12:27 p.m. on the 29th day of June, 2012.

Session Law 2012-130

S.B. 804

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO STATUTES AFFECTING THE STATE RETIREMENT SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-24 reads as rewritten:

"§ 128-24. **Membership.**

The membership of this Retirement System shall be composed as follows:

...

- (2) All persons who are employees of a participating county, city, or town except those who shall notify the Board of Trustees in writing, on or before 90 30 days following the date of participation in the Retirement System by such county, city or town: Provided, further, that employees of county social services and health departments whose compensation is derived from federal, State, and local funds may be members of the North Carolina Local Governmental Employees' Retirement System to the full extent of their compensation. Any member on or after July 1, 1969, may deposit in the annuity savings fund by a single payment the contributions plus interest which would have been credited to his account had he not signed a nonelection blank, and be entitled to such membership service credits and any prior service credits which became void upon execution of such nonelection blank; provided that the employer will pay the appropriate matching contributions.

...."

SECTION 2.(a) G.S. 128-28(m) reads as rewritten:

"(m) Duties of Actuary. – The Board of Trustees shall designate an actuary who shall be the technical adviser of the Board of Trustees on matters regarding the operation of the funds created by the provisions of this Chapter and shall perform such other duties as are required in connection therewith. For purposes of the annual valuation of System assets, the experience studies, and all other actuarial calculations required by this Chapter, all the assumptions used by the System's actuary, including mortality tables, interest rates, annuity factors, and employer contribution rates, shall be set out in the actuary's periodic reports or other materials provided to the Board of Trustees. These materials, once accepted by the Board, shall be considered part of the Plan documentation governing this Retirement System; similarly, the Board's minutes relative to all actuarial assumptions used by the System shall also be considered part of the Plan documentation governing this Retirement System, with the result of precluding any employer discretion in the determination of benefits payable hereunder, consistent with Section 401(a)(25) of the Internal Revenue Code."

SECTION 2.(b) G.S. 135-6(1) reads as rewritten:

"(1) Duties of Actuary. – The Board of Trustees shall designate an actuary who shall be the technical adviser of the Board of Trustees on matters regarding the operation of the funds created by the provisions of this Chapter and shall perform such other duties as are required in connection therewith. For purposes of the annual valuation of System assets, the experience studies, and all other actuarial calculations required by this Chapter, all the assumptions used by the System's actuary, including mortality tables, interest rates, annuity factors, and employer contribution rates, shall be set out in the actuary's periodic reports or other materials provided to the Board of Trustees. These materials, once accepted by the Board, shall be considered part of the Plan documentation governing this Retirement System; similarly, the Board's minutes relative to all actuarial assumptions used by the System shall also be considered part of the Plan documentation governing this Retirement System, with the result of precluding any employer discretion in the determination of benefits payable hereunder, consistent with Section 401(a)(25) of the Internal Revenue Code."

SECTION 3.(a) G.S. 128-26(e) reads as rewritten:

"(e) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by him since he last became a member, and also if he has a prior service certificate which is in full force and effect, the amount of the service certified on his prior service certificate; and if he has sick leave standing to his credit upon retirement on or after July 1, 1971, one month of credit for each 20 days or portion thereof, but not less than one hour; sick leave shall not be counted in computing creditable service for the purpose of determining eligibility for disability retirement or for a vested deferred allowance. Creditable service for unused sick leave shall be allowed only for sick leave accrued monthly during employment under a duly adopted sick leave policy and for which the member may be able to take credits and be paid for sick leave without restriction. However, in no instance shall unused sick leave be credited to a member's account at retirement if the member's last day of actual service is more than 365 days prior to the effective date of the member's retirement.

On and after July 1, 1971, a member whose account was closed on account of absence from service under the provisions of G.S. 128-24(1a) and who subsequently returns to service for a period of five years, may thereafter repay the amount withdrawn plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service by the amount of creditable service lost when this account was closed.

On and after July 1, 1973, a member whose account in the Teachers' and State Employees' Retirement System was closed on account of absence from service under the provisions of G.S. 135-3(3) and who subsequently became or becomes a member of this System with credit for five years of service, may thereafter repay in a lump sum the amount withdrawn from the Teachers' and State Employees' Retirement System plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service in this System by the amount of creditable service lost when his account was closed.

Notwithstanding any other provision of this Chapter, any member who entered service or was restored to service prior to July 1, 1982, and was excluded from membership service solely on account of having attained the age of 62 years, in accordance with former G.S. 128-24(3a), may purchase membership service credits for such excluded service by making a lump-sum payment equal to the contributions that would have been deducted pursuant to G.S. 128-30(b) had he been a member of the Retirement System, increased by interest calculated at a rate of seven percent (7%) per annum. ~~Creditable service for unused sick leave shall be allowed only for sick leave accrued monthly during employment under a duly adopted sick leave policy and for which the member may be able to take credits and be paid for sick leave without restriction.~~

On and after January 1, 1986, the creditable service of a member who was a member of the Law Enforcement Officers' Retirement System at the time of the transfer of law enforcement officers employed by participating employers from that System to this Retirement System and whose accumulated contributions are transferred from that System to this Retirement System, includes service that was creditable in the Law Enforcement Officers' Retirement System; and membership service with that System is membership service with this Retirement System; provided, notwithstanding any provisions of this Article to the contrary, any inchoate or accrued rights of such a member to purchase creditable service for military service, withdrawn service and prior service under the rules and regulations of the Law Enforcement Officers' Retirement System may not be diminished and may be purchased as creditable service with this Retirement System under the same conditions that would have otherwise applied."

SECTION 3.(b) G.S. 135-4(c) reads as rewritten:

"(c) Subject to the above restrictions and to such other rules and regulations as the Board of Trustees may adopt, the Board of Trustees shall verify, as soon as practicable after the filing of such statements of service, the service therein claimed.

In lieu of a determination of the actual compensation of the members that was received during such period of prior service the Board of Trustees may use for the purpose of this Chapter the compensation rates which will be determined by the average salary of the members

for five years immediately preceding the date this System became operative as the records show the member actually received. ~~Creditable service for unused sick leave shall be allowed only for sick leave accrued monthly during employment under a duly adopted sick leave policy and for which the member may be able to take credits and be paid for sick leave without restriction.~~"

SECTION 3.(c) G.S. 135-4(e) reads as rewritten:

"(e) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by him since he last became a member, and also if he has a prior service certificate which is in full force and effect, the amount of service certified on his prior service certificate; and if he has sick leave standing to his credit upon retirement on or after July 1, 1971, one month of credit for each 20 days or portion thereof, but not less than one hour; sick leave shall not be counted in computing creditable service for the purpose of determining eligibility for disability retirement or for a vested deferred allowance. Creditable service for unused sick leave shall be allowed only for sick leave accrued monthly during employment under a duly adopted sick leave policy and for which the member may be able to take credits and be paid for sick leave without restriction. However, in no instance shall unused sick leave be credited to a member's account at retirement if the member's last day of actual service is more than five years prior to the effective date of the member's retirement. Further, any agency with a sick leave policy that is more generous than that of all State agencies subject to the rules of the Office of State Personnel shall proportionately adjust each of its retiring employees' sick leave balance to the balance that employee would have had under the rules of the Office of State Personnel.

On and after July 1, 1971, a member whose account was closed on account of absence from service under the provisions of G.S. 135-3(3) and who subsequently returns to service for a period of five years, may thereafter repay in a lump sum the amount withdrawn plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service by the amount of creditable service lost when his account was closed.

On and after July 1, 1973, a member whose account in the North Carolina Local Governmental Employees' Retirement System was closed on account of absence from service under the provisions of G.S. 128-24(1a) and who subsequently became or becomes a member of this System with credit for five years of service, may thereafter repay in a lump sum the amount withdrawn from the North Carolina Local Governmental Employees' Retirement System plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service in this System by the amount of creditable service lost when his account was closed.

On or after July 1, 1979, a member who has obtained 60 months of aggregate service, or five years of membership service, as an employee of the North Carolina General Assembly, except legislators, participants in the Legislative Intern Program and pages, may make a lump sum payment together with interest, and an administrative fee for such service, to the Teachers' and State Employees' Retirement System of an amount equal to what he would have contributed had he been a member on his first day of employment.

On and after January 1, 1985, the creditable service of a member who was a member of the Law-Enforcement Officers' Retirement System at the time of the transfer of law-enforcement officers employed by the State from that System to this Retirement System and whose accumulated contributions are transferred from that System to this Retirement System, shall include service that was creditable in the Law-Enforcement Officers' Retirement System; and membership service with that System shall be membership service with this Retirement System; provided, notwithstanding any provision of this Article to the contrary, any inchoate or accrued rights of such a member to purchase creditable service for military service, withdrawn service and prior service under the rules and regulations of the Law-Enforcement Officers' Retirement System shall not be diminished and may be purchased as creditable service with this Retirement System under the same conditions which would have otherwise applied."

SECTION 4.(a) G.S. 120-4.31 reads as rewritten:**"§ 120-4.31. Internal Revenue Code compliance.**

(a) Notwithstanding any other provisions of law to the contrary, compensation for any calendar year after 1988 in which employee or employer contributions are made and for which annual compensation is used for computing any benefit under this Article shall not exceed the higher of two hundred thousand dollars (\$200,000) or the amount determined by the Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the imposition of the limitation shall not reduce a member's benefit below the amount determined as of December 31, 1988.

Effective January 1, 1996, the annual compensation of a member taken into account for determining all benefits provided under this Article shall not exceed one hundred fifty thousand dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the Internal Revenue Code and any regulations issued under the Code. However, with respect to a person who became a member of the Retirement System prior to January 1, 1996, the imposition of this limitation on compensation shall not reduce the amount of compensation which may be taken into account for determining the benefits of that member under this Article below the amount of compensation which would have been recognized under the provisions of this Article in effect on July 1, 1993.

Effective January 1, 2002, the annual compensation of a person, who became a member of the Retirement System on or after January 1, 1996, taken into account for determining all benefits accruing under this Article for any plan year after December 31, 2001, shall not exceed two hundred thousand dollars (\$200,000) or the amount otherwise set by the Internal Revenue Code or determined by the Commissioner of Internal Revenue as the limitation for calendar years after 2002.

All the provisions in this subsection have been enacted to make clear that the Plan shall not base contributions or Plan benefits on annual compensation in excess of the limits prescribed by Section 401(a)(17) of the Internal Revenue Code, as adjusted from time to time, subject to certain federal grandfathering rules.

(b) Notwithstanding any other provisions of law to the contrary, the annual benefit payable on behalf of a member shall, if necessary, be reduced to the extent required by Section 415(b) and with respect to calendar years commencing prior to January 1, 2000, Section 415(e) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined contributions plan that is required to be taken into account for the purposes of the limitation contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this Article shall be reduced to the extent required by Section 415(e) prior to making any reduction under the defined contribution plan provided by the employer. However, with respect to a member who has benefits accrued under this Article but whose benefit had not commenced as of December 31, 1999, the combined plan limitation contained in Section 415(e) of the Internal Revenue Code shall not be applied to such member for calendar years commencing on or after January 1, 2000.

~~(c) On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of April 1 of the calendar year following the calendar year that the member attains 70 ½ years of age or April 1 of the calendar year following the calendar year in which the member terminates employment. September 8, 2009, and for all Plan years to which the minimum distribution rules of the Internal Revenue Code are applicable, with respect to any member who has terminated employment, the Plan shall comply with federal income tax minimum distribution rules by applying a reasonable and good faith interpretation to Section 401(a)(9) of the Internal Revenue Code.~~

~~(d) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding and rollovers from the Plan. The Plan does not have mandatory distributions within the meaning of Section 401(a)(31) of the Internal Revenue Code. With respect to distributions from the Plan and notwithstanding any other provision of the Plan to the contrary~~

that would otherwise limit a distributee's election under this Article, a distributee (including, after December 31, 2006, a non-spouse beneficiary if that non-spouse beneficiary elects a direct rollover only to an inherited traditional or Roth IRA as permitted under applicable federal law) may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. As used in this subsection, an "eligible retirement plan" means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, on and after January 1, 2009, a Roth IRA, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible retirement plan also means an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into that plan from this Plan. As used in this subsection, a "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee. Provided, 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~~ shall not include: 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; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities). Effective as of January 1, 2002, and notwithstanding the exclusion of any after-tax portion from such a rollover distribution in the preceding sentence, 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~~ That portion may be ~~transferred only transferred,~~ pursuant to applicable federal law, to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, to a qualified defined benefit plan, or to a qualified defined contribution plan described in Section ~~401(a) or 403(a)~~ 401(a), 403(a), or 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. ~~Provided, an eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.~~ The definition of eligible retirement plan shall also apply in the case of a distribution to 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, or a court-ordered equitable distribution of marital property, as provided under ~~G.S. 50-30.~~ G.S. 50-20.1. ~~Provided, a distributee includes an employee or former employee. Provided further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.~~ Effective on and after January 1, 2007, notwithstanding any other provision of this subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in the manner prescribed by the administrator of the Board of Trustees of this Retirement System, to directly

roll over any portion of the beneficiary's distribution from the Retirement System; however, such rollover shall conform with the provisions of section 402(c)(11) of the Code."

SECTION 4.(b) G.S. 128-38.2 reads as rewritten:

"§ 128-38.2. Internal Revenue Code compliance.

(a) Notwithstanding any other provisions of law to the contrary, compensation for any calendar year after 1988 in which employee or employer contributions are made and for which annual compensation is used for computing any benefit under this Article shall not exceed the higher of two hundred thousand dollars (\$200,000) or the amount determined by the Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the imposition of the limitation shall not reduce a member's benefit below the amount determined as of December 31, 1988.

Effective January 1, 1996, the annual compensation of a member taken into account for determining all benefits provided under this Article shall not exceed one hundred fifty thousand dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the Internal Revenue Code and any regulations issued under the Code. However, with respect to a person who became a member of the Retirement System prior to January 1, 1996, the imposition of this limitation on compensation shall not reduce the amount of compensation which may be taken into account for determining the benefits of that member under this Article below the amount of compensation which would have been recognized under the provisions of this Article in effect on July 1, 1993.

Effective January 1, 2002, the annual compensation of a person, who became a member of the Retirement System on or after January 1, 1996, taken into account for determining all benefits accruing under this Article for any plan year after December 31, 2001, shall not exceed two hundred thousand dollars (\$200,000) or the amount otherwise set by the Internal Revenue Code or determined by the Commissioner of Internal Revenue as the limitation for calendar years after 2002.

All the provisions in this subsection have been enacted to make clear that the Plan shall not base contributions or Plan benefits on annual compensation in excess of the limits prescribed by Section 401(a)(17) of the Internal Revenue Code, as adjusted from time to time, subject to certain federal grandfathering rules.

(b) Notwithstanding any other provisions of law to the contrary, the annual benefit payable on behalf of a member shall, if necessary, be reduced to the extent required by Section 415(b) and with respect to calendar years commencing prior to January 1, 2000, Section 415(e) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined contributions plan that is required to be taken into account for the purposes of the limitation contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this Article shall be reduced to the extent required by Section 415(e) prior to making any reduction under the defined contribution plan provided by the employer. However, with respect to a member who has benefits accrued under this Article but whose benefit had not commenced as of December 31, 1999, the combined plan limitation contained in Section 415(e) of the Internal Revenue Code shall not be applied to such member for calendar years commencing on or after January 1, 2000.

(c) ~~On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of April 1 of the calendar year following the calendar year that the member attains 70 ½ years of age or April 1 of the calendar year following the calendar year in which the member terminates employment.~~ September 8, 2009, and for all Plan years to which the minimum distribution rules of the Internal Revenue Code are applicable, with respect to any member who has terminated employment, the Plan shall comply with federal income tax minimum distribution rules by applying a reasonable and good faith interpretation to Section 401(a)(9) of the Internal Revenue Code.

(d) This subsection applies to distributions ~~made on or after January 1, 1993. Notwithstanding~~ and rollovers from the Plan. The Plan does not have mandatory distributions within the meaning of Section 401(a)(31) of the Internal Revenue Code. With respect to distributions from the Plan and notwithstanding any other provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee (including, after December 31, 2006, a non-spouse beneficiary if that non-spouse beneficiary elects a direct rollover only to an inherited traditional or Roth IRA as permitted under applicable federal law) may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. As used in this subsection, an "eligible retirement plan" means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, on and after January 1, 2009, a Roth IRA, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible retirement plan also means an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into that plan from this Plan. As used in this subsection, a "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee. Provided, 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~~ shall not include: 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; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities). Effective as of January 1, 2002, and notwithstanding the exclusion of any after-tax portion from such a rollover distribution in the preceding sentence, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. ~~However, such~~ That portion may be ~~transferred only transferred, pursuant to applicable federal law,~~ to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, to a qualified defined benefit plan, or to a qualified defined contribution plan described in Section 401(a) or 403(a) 401(a), 403(a), or 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Provided, an eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to 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, or a court-ordered equitable distribution of marital property, as provided under G.S. 50-30. G.S. 50-20.1. Provided, a distributee includes an employee or former employee. Provided further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the

~~distribute.~~ Effective on and after January 1, 2007, notwithstanding any other provision of this subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in the manner prescribed by the administrator of the Board of Trustees of this Retirement System, to directly roll over any portion of the beneficiary's distribution from the Retirement System; however, such rollover shall conform with the provisions of section 402(c)(11) of the Code."

SECTION 4.(c) G.S. 135-18.7 reads as rewritten:

"§ 135-18.7. Internal Revenue Code compliance.

(a) Notwithstanding any other provisions of law to the contrary, compensation for any calendar year after 1988 in which employee or employer contributions are made and for which annual compensation is used for computing any benefit under this Article shall not exceed the higher of two hundred thousand dollars (\$200,000) or the amount determined by the Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the imposition of the limitation shall not reduce a member's benefit below the amount determined as of December 31, 1988.

Effective January 1, 1996, the annual compensation of a member taken into account for determining all benefits provided under this Article shall not exceed one hundred fifty thousand dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the Internal Revenue Code and any regulations issued under the Code. However, with respect to a person who became a member of the Retirement System prior to January 1, 1996, the imposition of this limitation on compensation shall not reduce the amount of compensation which may be taken into account for determining the benefits of that member under this Article below the amount of compensation which would have been recognized under the provisions of this Article in effect on July 1, 1993.

Effective January 1, 2002, the annual compensation of a person, who became a member of the Retirement System on or after January 1, 1996, taken into account for determining all benefits accruing under this Article for any plan year after December 31, 2001, shall not exceed two hundred thousand dollars (\$200,000) or the amount otherwise set by the Internal Revenue Code or determined by the Commissioner of Internal Revenue as the limitation for calendar years after 2002.

All the provisions in this subsection have been enacted to make clear that the Plan shall not base contributions or Plan benefits on annual compensation in excess of the limits prescribed by Section 401(a)(17) of the Internal Revenue Code, as adjusted from time to time, subject to certain federal grandfathering rules.

(b) Notwithstanding any other provisions of law to the contrary, the annual benefit payable on behalf of a member shall, if necessary, be reduced to the extent required by Section 415(b) and with respect to calendar years commencing prior to January 1, 2000, Section 415(e) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined contributions plan that is required to be taken into account for the purposes of the limitation contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this Article shall be reduced to the extent required by Section 415(e) prior to making any reduction under the defined contribution plan provided by the employer. However, with respect to a member who has benefits accrued under this Article but whose benefit had not commenced as of December 31, 1999, the combined plan limitation contained in Section 415(e) of the Internal Revenue Code shall not be applied to such member for calendar years commencing on or after January 1, 2000.

(c) ~~On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of April 1 of the calendar year following the calendar year that the member attains 70 ½ years of age or April 1 of the calendar year following the calendar year in which the member terminates employment.~~ September 8, 2009, and for all Plan years to which the minimum distribution rules of the Internal Revenue Code are applicable, with respect to any member who has terminated employment, the Plan

shall comply with federal income tax minimum distribution rules by applying a reasonable and good faith interpretation to Section 401(a)(9) of the Internal Revenue Code.

(d) ~~This subsection applies to distributions made on or after January 1, 1993. Notwithstanding and rollovers from the Plan. The Plan does not have mandatory distributions within the meaning of Section 401(a)(31) of the Internal Revenue Code. With respect to distributions from the Plan and notwithstanding any other provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee (including, after December 31, 2006, a non-spouse beneficiary if that non-spouse beneficiary elects a direct rollover only to an inherited traditional or Roth IRA as permitted under applicable federal law) may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. As used in this subsection, an "eligible retirement plan" means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, on and after January 1, 2009, a Roth IRA, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible retirement plan also means an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into that plan from this Plan. As used in this subsection, a "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee. Provided, 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 shall not include: 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; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities). Effective as of January 1, 2002, and notwithstanding the exclusion of any after-tax portion from such a rollover distribution in the preceding sentence, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such That portion may be transferred only transferred, pursuant to applicable federal law, to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, to a qualified defined benefit plan, or to a qualified defined contribution plan described in Section 401(a) or 403(a) 401(a), 403(a), or 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Provided, an eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.~~ The definition of eligible retirement plan shall also apply in the case of a distribution to 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, or a court-ordered equitable distribution of marital property, as provided under G.S. 50-30.

~~G.S. 50-20.1. Provided, a distributee includes an employee or former employee. Provided further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee. Effective on and after January 1, 2007, notwithstanding any other provision of this subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in the manner prescribed by the administrator of the Board of Trustees of this Retirement System, to directly roll over any portion of the beneficiary's distribution from the Retirement System; however, such rollover shall conform with the provisions of section 402(c)(11) of the Code."~~

SECTION 4.(d) G.S. 135-74 reads as rewritten:

"§ 135-74. Internal Revenue Code compliance.

(a) Notwithstanding any other provisions of law to the contrary, compensation for any calendar year after 1988 in which employee or employer contributions are made and for which annual compensation is used for computing any benefit under this Article shall not exceed the higher of two hundred thousand dollars (\$200,000) or the amount determined by the Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the imposition of the limitation shall not reduce a member's benefit below the amount determined as of December 31, 1988.

All the provisions in this subsection have been enacted to make clear that the Plan shall not base contributions or Plan benefits on annual compensation in excess of the limits prescribed by Section 401(a)(17) of the Internal Revenue Code, as adjusted from time to time, subject to certain federal grandfathering rules.

Effective January 1, 1996, the annual compensation of a member taken into account for determining all benefits provided under this Article shall not exceed one hundred fifty thousand dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the Internal Revenue Code and any regulations issued under the Code. However, with respect to a person who became a member of the Retirement System prior to January 1, 1996, the imposition of this limitation on compensation shall not reduce the amount of compensation which may be taken into account for determining the benefits of that member under this Article below the amount of compensation which would have been recognized under the provisions of this Article in effect on July 1, 1993.

Effective January 1, 2002, the annual compensation of a person, who became a member of the Retirement System on or after January 1, 1996, taken into account for determining all benefits accruing under this Article for any plan year after December 31, 2001, shall not exceed two hundred thousand dollars (\$200,000) or the amount otherwise set by the Internal Revenue Code or determined by the Commissioner of Internal Revenue as the limitation for calendar years after 2002.

(b) Notwithstanding any other provisions of law to the contrary, the annual benefit payable on behalf of a member shall, if necessary, be reduced to the extent required by Section 415(b) and with respect to calendar years commencing prior to January 1, 2000, Section 415(e) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined contributions plan that is required to be taken into account for the purposes of the limitation contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this Article shall be reduced to the extent required by Section 415(e) prior to making any reduction under the defined contribution plan provided by the employer. However, with respect to a member who has benefits accrued under this Article but whose benefit had not commenced as of December 31, 1999, the combined plan limitation contained in Section 415(e) of the Internal Revenue Code shall not be applied to such member for calendar years commencing on or after January 1, 2000.

(c) ~~On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of April 1 of the calendar year following the calendar year that the member attains 70 1/2 years of age or April 1 of the calendar year following the calendar year in which the member terminates employment. September 8, 2009, and for all Plan years to which the minimum distribution rules of the~~

Internal Revenue Code are applicable, with respect to any member who has terminated employment, the Plan shall comply with federal income tax minimum distribution rules by applying a reasonable and good faith interpretation to Section 401(a)(9) of the Internal Revenue Code.

(d) ~~This subsection applies to distributions made on or after January 1, 1993. Notwithstanding~~ and rollovers from the Plan. The Plan does not have mandatory distributions within the meaning of Section 401(a)(31) of the Internal Revenue Code. With respect to distributions from the Plan and notwithstanding any other provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee (including, after December 31, 2006, a non-spouse beneficiary if that non-spouse beneficiary elects a direct rollover only to an inherited traditional or Roth IRA as permitted under applicable federal law) may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. As used in this subsection, an "eligible retirement plan" means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, on and after January 1, 2009, a Roth IRA, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible retirement plan also means an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into that plan from this Plan. As used in this subsection, a "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee. Provided, 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 shall not include: 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; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities). Effective as of January 1, 2002, and notwithstanding the exclusion of any after-tax portion from such a rollover distribution in the preceding sentence, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such That portion may be transferred only transferred, pursuant to applicable federal law, to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, to a qualified defined benefit plan, or to a qualified defined contribution plan described in Section 401(a) or 403(a) 401(a), 403(a), or 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Provided, an eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to 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, or a court-ordered equitable distribution of marital property, as provided under ~~G.S. 50-30. G.S. 50-20.1. Provided, a distributee includes an employee or former employee. Provided further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.~~ Effective on and after January 1, 2007, notwithstanding any other provision of this subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in the manner prescribed by the administrator of the Board of Trustees of this Retirement System, to directly roll over any portion of the beneficiary's distribution from the Retirement System; however, such rollover shall conform with the provisions of section 402(c)(11) of the Code."

SECTION 5. G.S. 120-4.28 reads as rewritten:

"§ 120-4.28. Survivor's alternate benefit.

The designated beneficiary of a member who dies in service before retirement but after age 60 and after completing five years of creditable service or after completing 12 years of creditable service is entitled to Option 2 prescribed by G.S. 120-4.26.

In the event that a retirement allowance becomes payable to the one and only one beneficiary designated to receive a return of accumulated contributions pursuant to this subsection and that beneficiary dies before the total of the retirement allowances paid equals the amount of those accumulated contributions over the total of the retirement allowances paid to the beneficiary, the allowance shall be paid in a lump sum to the person or persons the member has designated as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the one and only one beneficiary's legal representative."

SECTION 6. G.S. 135-1(25) reads as rewritten:

"(25) "Teacher" shall mean (i) any teacher, helping teacher, teacher in a job-sharing position under G.S. 115C-326.5 except for a beneficiary in that position, librarian, principal, supervisor, superintendent of public schools or any full-time employee, city or county, superintendent of public instruction, or any full-time employee of the Department of Public Instruction, president, dean or teacher, or any full-time employee in any educational institution supported by and under the control of the ~~State~~; State; (ii) who works at least 30 or more hours per week for at least nine or more months per calendar year; Provided, that the term "teacher" shall not include any part-time, temporary, or substitute teacher or employee except for a teacher in a job-sharing position, and shall not include those participating in an optional retirement program provided for in G.S. 135-5.1 or G.S. 135-5.4. In all cases of doubt, the Board of Trustees, hereinbefore defined, shall determine whether any person is a teacher as defined in this Chapter. On and after August 1, 2001, a person who is a nonimmigrant alien and who otherwise meets the requirements of this subdivision shall not be excluded from the definition of "teacher" solely because the person holds a temporary or time-limited visa. Notwithstanding the foregoing, the term "teacher" shall not include any nonimmigrant alien employed in elementary or secondary public schools (whether employed in a full-time, part-time, temporary, permanent, or substitute teacher position) and participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q)."

SECTION 7.(a) G.S. 120-4.9 reads as rewritten:

"§ 120-4.9. Retirement system established.

A Retirement System is established and placed under the Board of Trustees of the Teachers' and State Employees' Retirement System for administrative purposes. This Retirement System is a governmental plan, within the meaning of Section 414(d) of the Internal Revenue Code.

Therefore, the nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not apply.

The Retirement System shall have all the power and privileges of a corporation and shall be known as the "Legislative Retirement System of North Carolina." By this name all of its business shall be transacted, all of its funds invested and all of its cash and securities and other property held. All direction and policies concerning the Legislative Retirement System shall be vested in the Legislative Services Commission.

Consistent with Section 401(a)(1) of the Internal Revenue Code, all member employee and employer contributions to this Retirement System shall be made to funds held in trust through trust instruments that have the purposes of distributing trust principal and income to retired members and their beneficiaries and of paying other definitely determinable benefits under this Chapter, after meeting the necessary expenses of administering this Retirement System. Neither the trust corpus nor income from this trust can be used for purposes other than the exclusive benefit of members or their beneficiaries, except that employer contributions made to the trust under a good faith mistake of fact may be returned to an employer, where the refund can occur within less than one year after the mistaken contribution was made, consistent with the rule adopted by the Board of Trustees. The Retirement System shall have a consolidated Plan document, consisting of relevant statutory provisions in this Chapter, associated regulations in the North Carolina Administrative Code, substantive and procedural information on the official forms used by the Retirement System, and policies and minutes of the Board of Trustees."

SECTION 7.(b) G.S. 128-22 reads as rewritten:

"§ 128-22. 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 employees of those counties, cities and towns or other eligible employers participating in the said Retirement System. Following the filing of the application as provided in G.S. 128-23(c), the Board shall set a date, effective the first day of a calendar quarter, not more than 90 days thereafter, as of which date participation of the employer may begin, which date shall be known as the date of participation for such employer: Provided, that in the judgment of the Board of Trustees an adequate number of persons have indicated their intention to participate; otherwise at such later date as the Board of Trustees may set.

~~†~~This Retirement System is a governmental plan, within the meaning of Section 414(d) of the Internal Revenue Code. Therefore, the nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not apply. This System shall have the power and privileges of a corporation and shall be known as the "North Carolina Local Governmental Employees' Retirement System," and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held.

Consistent with Section 401(a)(1) of the Internal Revenue Code, all contributions from participating employers and participating employees to this Retirement System shall be made to funds held in trust through trust instruments that have the purposes of distributing trust principal and income to retired members and their beneficiaries and of paying other definitely determinable benefits under this Chapter, after meeting the necessary expenses of administering this Retirement System. Neither the trust corpus nor income from this trust can be used for purposes other than the exclusive benefit of members or their beneficiaries, except that employer contributions made to the trust under a good faith mistake of fact may be returned to an employer, where the refund can occur within less than one year after the mistaken contribution was made, consistent with the rule adopted by the Board of Trustees. The Retirement System shall have a consolidated Plan document, consisting of Article V, Section 6(2) of the North Carolina Constitution, relevant statutory provisions in this Chapter, associated regulations in the North Carolina Administrative Code, substantive and procedural information on the official forms used by the Retirement System, and policies and minutes of the Board of Trustees."

SECTION 7.(c) G.S. 135-2 reads as rewritten:

"§ 135-2. 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 Chapter for teachers and State employees of the State of North Carolina. The Retirement System so created shall be established as of the first day of July, 1941.

~~This Retirement System is a governmental plan, within the meaning of Section 414(d) of the Internal Revenue Code. Therefore, the nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not apply. This System shall have the power and privileges of a corporation and shall be known as the "Teachers' and State Employees' Retirement System of North Carolina," and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held.~~

Consistent with Section 401(a)(1) of the Internal Revenue Code, all contributions from participating employers and participating employees to this Retirement System shall be made to funds held in trust through trust instruments that have the purposes of distributing trust principal and income to retired members and their beneficiaries and of paying other definitely determinable benefits under this Chapter, after meeting the necessary expenses of administering this Retirement System. Neither the trust corpus nor income from this trust can be used for purposes other than the exclusive benefit of members or their beneficiaries, except that employer contributions made to the trust under a good faith mistake of fact may be returned to an employer, where the refund can occur within less than one year after the mistaken contribution was made, consistent with the rule adopted by the Board of Trustees. The Retirement System shall have a consolidated Plan document, consisting of Article V, Section 6(2) of the North Carolina Constitution, relevant statutory provisions in this Chapter; associated regulations in the North Carolina Administrative Code, substantive and procedural information on the official forms used by the Retirement System, and policies and minutes of the Board of Trustees.

SECTION 7.(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. This Retirement System is a governmental plan, within the meaning of Section 414(d) of the Internal Revenue Code. Therefore, the nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not apply. 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.

Consistent with Section 401(a)(1) of the Internal Revenue Code, all contributions from participating employers and participating employees to this Retirement System shall be made to funds held in trust through trust instruments that have the purposes of distributing trust principal and income to retired members and their beneficiaries and of paying other definitely determinable benefits under this Chapter, after meeting the necessary expenses of administering this Retirement System. Neither the trust corpus nor income from this trust can be used for purposes other than the exclusive benefit of members or their beneficiaries, except that employer contributions made to the trust under a good faith mistake of fact may be returned to an employer, where the refund can occur within less than one year after the mistaken contribution was made, consistent with the rule adopted by the Board of Trustees. The Retirement System shall have a consolidated Plan document, consisting of relevant statutory provisions in this Chapter, associated regulations in the North Carolina Administrative Code, substantive and procedural information on the official forms used by the Retirement System, and policies and minutes of the Board of Trustees.

SECTION 8. G.S. 135-3(2) and G.S. 135-3(5) are repealed.

SECTION 9.(a) G.S. 128-28(f) reads as rewritten:

"(f) Voting Rights. – Each trustee shall be entitled to one vote in the Board. A majority of affirmative votes in attendance shall be necessary for a decision by the trustees at any meeting of said Board. A vote may only be taken if at least seven members of the Board are in attendance, in person or by telephone, for the meeting at which a vote on a decision is taken."

SECTION 9.(b) G.S. 135-6 reads as rewritten:

"(e) Voting Rights. – Each trustee shall be entitled to one vote in the Board. ~~Four affirmative votes shall be necessary for a decision by the trustees at any meeting of said Board.~~ A majority of affirmative votes by trustees in attendance shall be necessary for a decision by the trustees at any meeting of the Board. A vote may only be taken if at least seven members of the Board are in attendance, in person or by telephone, for the meeting at which a vote on a decision is taken."

SECTION 10. G.S. 147-69.2(a) reads as rewritten:

"§ 147-69.2. **Investments authorized for special funds held by State Treasurer.**

(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

...

(17c) Retiree Health ~~Premium Reserve Account~~ Benefit Fund."

SECTION 11. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Became law upon approval of the Governor at 12:29 p.m. on the 29th day of June, 2012.

Session Law 2012-131

S.B. 815

AN ACT INITIATING REFORM OF THE WORKFORCE DEVELOPMENT LAWS OF NORTH CAROLINA, MODIFYING THE COMPOSITION OF THE NORTH CAROLINA COMMISSION ON WORKFORCE DEVELOPMENT, AND ESTABLISHING THE JOINT LEGISLATIVE WORKFORCE DEVELOPMENT SYSTEM REFORM COMMITTEE, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE BASED ON RECOMMENDATIONS FROM THE PROGRAM EVALUATION DIVISION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143B-438.10 reads as rewritten:

"§ 143B-438.10. **Commission on Workforce Development.**

(a) Creation and Duties. – There is created within the Department of Commerce the North Carolina Commission on Workforce Development. The Commission shall have the following powers and duties:

- (1) To develop strategies to produce a skilled, competitive workforce that meets the needs of the State's changing economy.
- (2) To advise the Governor, the General Assembly, State and local agencies, and the business sector regarding policies and programs to enhance the State's ~~workforce~~ workforce by submitting annually a comprehensive report on workforce development initiatives in the State.
- (3) To coordinate and develop strategies for cooperation between the academic, governmental, and business sectors.
- (4) To establish, develop, and provide ongoing oversight of the "One-Stop Delivery System" for employment and training services in the State.
- (5) To develop a unified State plan for workforce training and development.

- (6) To review and evaluate the plans and programs of agencies, boards, and organizations operating federally funded or State-funded workforce development programs for effectiveness, duplication, fiscal accountability, and coordination.
 - (7) To develop and continuously improve performance measures to assess the effectiveness of workforce training and employment in the State. The Commission shall assess and report on the performance of workforce development programs administered by the Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, the Department of Administration, and the Department of Public Instruction in a manner that addresses at least all of the following:
 - a. Actual performance and costs of State and local workforce development programs.
 - b. Expected performance levels for State and local workforce development programs based on attainment of program goals and objectives.
 - c. Program outcomes, levels of employer participation, and satisfaction with employment and training services.
 - d. Information already tracked through the common follow-up information management system created pursuant to G.S. 96-32, such as demographics, program enrollment, and program completion.
 - (7a) To issue annual reports that, at a minimum, include the information listed in sub-subdivisions a. through d. of subdivision (7) of this section on the performance of workforce development programs administered by the entities listed in that subdivision. The first annual report shall be delivered to the General Assembly by January 15, 2014.
 - (8) To submit to the Governor and to the General Assembly by April 1, 2000, and biennially thereafter, a comprehensive Workforce Development Plan that shall include at least the following:
 - a. Goals and objectives for the biennium.
 - b. An assessment of current workforce programs and policies.
 - c. An assessment of the delivery of employment and training services to special populations, such as youth and dislocated workers.
 - d. Recommendations for policy, program, or funding changes.
 - (9) To serve as the State's Workforce Investment Board for purposes of the federal Workforce Investment Act of 1998.
 - (10) To take the lead role in developing the memorandum of understanding for workforce development programs with the Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, and the Department of Administration. The memorandum of understanding must be reviewed at least every five years.
 - (11) To coordinate the activities of workforce development work groups formed under this Part.
 - (12) To collaborate with the Department of Commerce on the common follow-up information management system.
- (b) Membership; Terms. – ~~The~~ Effective January 1, 2013, the Commission on Workforce Development shall consist of ~~38~~25 members appointed as follows:
- (1) By virtue of their offices, the following department and agency heads or their respective designees shall serve on the Commission: the Secretary of the Department of Administration, the Secretary of the Department of Health and Human Services, the Assistant Secretary of Commerce in charge of the Division of Employment Security, the Superintendent of Public Instruction, the President of the Community Colleges System Office, the Commissioner

of the Department of Labor, and the Secretary of the Department of Commerce.

(2) The Governor shall appoint ~~32~~19 members as follows:

- a. ~~Six~~Two members representing public, postsecondary, and vocational education.
- b. ~~Two~~members~~One~~ member representing community-based organizations.
- c. ~~Six~~Three members representing labor.
- d. ~~Eighteen~~Thirteen members representing business and industry.

(3) The terms of the members appointed by the Governor shall be for four years.

(c) **Appointment of Chair; Meetings.** – The Governor shall appoint the Chair of the Commission from among the business and industry members, and that person shall serve at the pleasure of the Governor. The Commission shall meet at least quarterly upon the call of the Chair.

(d) **Staff; Funding.** – The clerical and professional staff to the Commission shall be provided by the Department of Commerce. Funding for the Commission shall derive from State and federal resources as allowable and from the partner agencies to the Commission. Members of the Commission shall receive necessary travel and subsistence in accordance with State law.

(e) **Agency Cooperation; Reporting.** – Each State agency, department, institution, local political subdivision of the State, and any other State-supported entity identified by or subject to review by the Commission in carrying out its duties under subdivision (6) of subsection (a) of this section must participate fully in the development of performance measures for workforce development programs and shall provide to the Commission all data and information available to or within the agency or entity's possession that is requested by the Commission for its review. Further, each agency or entity required to report information and data to the Commission under this section shall maintain true and accurate records of the information and data requested by the Commission. The records shall be open to the Commission's inspection and copying at reasonable times and as often as necessary.

(f) **Confidentiality.** – At the request of the Commission, each agency or entity subject to this section shall provide it with sworn or unsworn reports with respect to persons employed or trained by the agency or entity, as deemed necessary by the Commission to carry out its duties pursuant to this section. The information obtained from an agency or entity pursuant to this subsection (i) is not a public record subject to the provisions of Chapter 132 of the General Statutes and (ii) shall be held by the Commission as confidential, unless it is released in a manner that protects the identity and privacy of individual persons and employers referenced in the information.

(g) **Advisory Work Group.** – The Commission shall appoint an Advisory Work Group composed of representatives from the State and local entities engaged in workforce development activities to assist the Commission with the development of performance measures."

SECTION 1.(b) The terms of the current members of the North Carolina Commission on Workforce Development appointed pursuant to G.S. 143B-438.10(b)(2) expire on December 31, 2012.

SECTION 1.(c) Beginning October 1, 2012, and quarterly thereafter, the Commission shall make periodic progress reports to the Joint Legislative Workforce Development System Reform Oversight Committee on development and implementation of the workforce development performance measurement system.

SECTION 2.(a) The Commission on Workforce Development shall be the lead agency in collaboration with the Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, and the Department of Administration in providing an effective, integrated workforce development system.

SECTION 2.(b) To provide for effective local services for workforce development in this State, the Commission on Workforce Development shall set criteria and standards for JobLink Career Centers. Local areas shall be afforded the flexibility to determine how to meet these criteria and standards as follows:

- (1) The Commission on Workforce Development shall strengthen JobLink Career Center requirements to require center staff to engage in cross-education or cross-training to ensure all staff is familiar with the State, federal, and local programs offered at the center and the full range of beneficial programs and services available to center customers.
- (2) JobLink Career Centers shall use technology to integrate programs and to improve access to services. Distance learning tools and electronic solutions should be employed to provide remote access for customers and a virtual presence for partner workforce development agencies that cannot offer on-site staff.
- (3) Each center shall provide cross-education or cross-training for staff to provide seamless services to customers when the usual program service provider is unavailable to provide services.
- (4) Each center shall demonstrate partnership with the community college or colleges in its service area.
- (5) Each center must have an online presence on the Internet that provides information about its location, operating hours, services, and contact information.
- (6) JobLink Career Centers and the Commission on Workforce Development should encourage participation of career development coordinators from local education agencies.

SECTION 2.(c) The Commission on Workforce Development, in collaboration with the Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, and the Department of Administration, shall conduct a review and revision of the memorandum of understanding for JobLink Career Centers in accordance with the requirements of this subsection and any policies adopted by the Commission on Workforce Development. The review shall evaluate whether the memorandum of understanding includes all of the following:

- (1) Commitments to provide staff to the centers and use of technology to provide a virtual presence for partner workforce development agencies that cannot provide on-site staff.
- (2) Development of coordinated local job development and placement processes.
- (3) Integration of job placement with job training provided by community colleges.
- (4) Establishment of cross-education and cross-training of center staff.
- (5) Participation in cost- and resource-sharing arrangements.
- (6) Mandated participation of locally administered programs such as county departments of social services.
- (7) Use of technology to improve center efficiencies, such as a common Web-based intake system.

SECTION 2.(d) The Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, the Department of Administration, the Department of Labor, the Department of Public Instruction, and the North Carolina Rural Economic Development Center, Inc., shall appoint a work group that includes representation from their respective workforce development programs to assist in the review and revision of the memorandum of understanding for the JobLink Career Center system, as required in subsection (c) of this section.

SECTION 2.(e) The work group established by subsection (d) of this section shall complete its work on the memorandum of understanding for the JobLink Career Center system by May 15, 2013, so that the revised memorandum becomes effective July 1, 2013. The revisions shall be reported to the Joint Legislative Workforce Development System Reform Oversight Committee by no later than May 15, 2013. The work group shall issue a final report on the implementation of the revised memorandum of understanding that describes the effect of the revisions on the JobLink Career Center system by no later than December 15, 2014. The work group shall dissolve upon the issuance of this final report.

SECTION 2.(f) The Commission on Workforce Development shall complete its work on JobLink Career Center requirements by May 15, 2013, so that all JobLink Career Centers must utilize the final criteria during the 2013-2014 fiscal year. The Commission shall report on the development of final requirements to the Joint Legislative Workforce Development System Reform Oversight Committee no later than May 15, 2013. The Commission should issue its final report on the implementation of requirements no later than December 15, 2014.

SECTION 3.(a) G.S. 143B-438.11 reads as rewritten:

"§ 143B-438.11. Local Workforce Development Boards.

(a) Duties. – Local Workforce Development Boards shall have the following powers and duties:

- (1) To develop policy and act as the governing body for local workforce development.
- (2) To provide planning, oversight, and evaluation of local workforce development programs, including the local One-Stop Delivery System.
- (3) To provide advice regarding workforce policy and programs to local elected officials, employers, education and employment training agencies, and citizens.
- (4) To develop a local plan in coordination with the appropriate community partners to address the workforce development needs of the service area.
- (5) To develop linkages with economic development efforts and activities in the service area and promote cooperation and coordination among public organizations, education agencies, and private businesses.
- (6) To review local agency plans and grant applications for workforce development programs for coordination and achievement of local goals and needs.
- (7) To serve as the Workforce Investment Board for the designated substate area for the purpose of the federal Workforce Investment Act of 1998.
- (8) To provide the appropriate guidance and information to Workforce Investment Act consumers to ensure that they are prepared and positioned to make informed choices in selecting a training provider. Each local ~~workforce development board~~ Workforce Development Board shall ensure that consumer choice is properly maintained in the one-stop centers and that consumers are provided the full array of public and private training provider information.
- (9) To provide coordinated regional workforce development planning and labor market data sharing.

(b) Members. – Members of local Workforce Development Boards shall be appointed by local elected officials in accordance with criteria established by the Governor and with provisions of the federal Workforce Investment Act. The local Workforce Development Boards shall have a majority of business members and shall also include representation of workforce and education providers, labor organizations, community-based organizations, and economic development boards as determined by local elected officials. The Chairs of the local Workforce Development Boards shall be selected from among the business members.

(c) Assistance. – The North Carolina Commission on Workforce Development and the Department of Commerce shall provide programmatic, technical, and other assistance to any local Workforce Development Board that realigns its service area with the boundaries of a local regional council of governments established pursuant to G.S. 160A-470."

SECTION 3.(b) Beginning March 15, 2013, and then quarterly until December 15, 2014, the Department of Commerce shall report to the Joint Legislative Workforce Development System Reform Oversight Committee on the status of any realignment of local Workforce Development Board service areas and any regional planning and cooperation required by this act.

SECTION 4.(a) Effective July 1, 2012, G.S. 96-32 reads as rewritten:

"§ 96-32. **Common follow-up information management system created.**

(a) The ~~DES~~ Department of Commerce, Division of Labor and Economic Analysis (DLEA), shall develop, implement, and maintain a common follow-up information management system for tracking the ~~employment status of~~ performance measures related to current and former participants in State job training, education, and placement programs. The system shall provide for the automated collection, organization, dissemination, and analysis of data obtained from State-funded programs that provide job training and education and job placement services to program participants. In developing the system, the ~~DES~~ DLEA shall ensure that data and information collected from State agencies is confidential, not open for general public inspection, and maintained and disseminated in a manner that protects the identity of individual persons from general public disclosure.

(b) The ~~DES~~ DLEA shall adopt procedures and guidelines for the development and implementation of the CFS authorized under this section.

(c) Based on data collected under the CFS, the ~~DES~~ DLEA shall evaluate the effectiveness of job training, education, and placement programs to determine if specific program goals and objectives are attained, to determine placement and completion rates for each program, and to make recommendations regarding the continuation of State funding for programs evaluated.

(d) The DLEA shall do the following:

- (1) Collaborate with the Commission on Workforce Development to develop common performance measures across workforce programs in the Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, the Department of Administration, and the Department of Public Instruction that can be tracked through the CFS in order to assess and report on workforce development program performance.
- (2) Determine whether other workforce development programs not participating in CFS should be required to report information and data.
- (3) Provide information from CFS to reporting agencies annually.
- (4) Provide training for participating agencies to ensure data quality and consistency.
- (5) Develop common data definitions that are shared across agencies contributing information to the system.

(e) The Department of Commerce shall ensure that funding and staff resources for the CFS are not diverted to other programs or systems managed by the Department of Commerce."

SECTION 4.(b) Beginning March 15, 2013, the Department of Commerce shall report quarterly to the Joint Legislative Workforce Development System Reform Oversight Committee on its efforts to strengthen the common follow-up information management system, with a final report due by December 15, 2014.

SECTION 5.(a) The Department of Commerce shall convene a group of program administrators to develop a plan for a common Internet-based intake system for the State's workforce development efforts, including JobLink Career Centers. To that end, the Department of Commerce, the Department of Health and Human Services, and the Department of

Administration shall develop jointly a plan that expands the Department of Commerce intake system to include workforce development programs administered by all three State agencies. The plan should include how the database will work, an implementation time line, estimated costs, and a method to pay for the up-front and ongoing costs of the system. The Department of Commerce should present the plan to the Joint Legislative Workforce Development System Reform Oversight Committee no later than July 1, 2013.

SECTION 5.(b) The Department of Commerce, in expanding its workforce development Internet Web site, shall include hyperlinks to information on the following:

- (1) All workforce development programs.
- (2) The location and operating hours of service providers and community colleges.
- (3) Training opportunities and programs.
- (4) The State's job matching system.
- (5) The State's unemployment insurance filing system.

The unified Web portal shall be completed by July 1, 2013. The Department of Commerce should present and demonstrate the unified Web portal to the Joint Legislative Workforce Development System Reform Oversight Committee by September 15, 2013.

SECTION 6. The North Carolina Community Colleges System Office shall cease operation of the Workforce Initiatives program funded through grants from the Department of Commerce, and the Department of Commerce may reallocate any remaining funds previously appropriated for that purpose.

SECTION 7.(a) The Joint Legislative Workforce Development System Reform Oversight Committee is created. The Committee consists of 16 members to be appointed as follows:

- (1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom are members of the minority party and at least one cochair of each of the following committees:
 - a. Senate Appropriations Committee on Education and Higher Education.
 - b. Senate Appropriations Committee on General Government and Information Technology.
 - c. Senate Appropriations Committee on Health and Human Services.
 - d. Senate Appropriations Committee on Natural and Economic Resources.
- (2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, at least two of whom are members of the minority party and at least one cochair of each of the following committees:
 - a. House Appropriations Subcommittee on Education.
 - b. House Appropriations Subcommittee on General Government.
 - c. House Appropriations Subcommittee on Health and Human Services.
 - d. House Appropriations Subcommittee on Natural and Economic Resources.

A member continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. The President Pro Tempore of the Senate and the Speaker of the House of Representatives each shall designate a cochair of the Joint Legislative Workforce Development System Reform Oversight Committee. The Committee shall meet at least once per quarter, except while the General Assembly is in regular session, and may meet at other times upon the joint call of the cochairs.

A quorum of the Committee is nine 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.

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.

SECTION 7.(b) Purpose and powers. – The Joint Legislative Workforce Development System Reform Oversight Committee shall monitor and oversee efforts to streamline the workforce development system, enhance accountability for the workforce development system, strengthen the JobLink Career Center system, implement technology to integrate programs at JobLink Career Centers, and improve access to workforce development activities. In conducting this monitoring and oversight, the Committee shall do all of the following:

- (1) Review reports prepared by the Department of Commerce, the Commission on Workforce Development, and any other State, local, or non-State entity related to the workforce development system.
- (2) Monitor the integration of workforce development programs from the former Employment Security Commission into the Department of Commerce.
- (3) Monitor the implementation of any realignment of the local workforce development areas based on the regional council structure.
- (4) Monitor and review the development and implementation of the performance measures developed by the Commission on Workforce Development.
- (5) Monitor the implementation of improvements to the common follow-up information management system authorized by G.S. 96-30 through G.S. 96-35.
- (6) Monitor and review the programmatic requirements and the memorandum of understanding for the JobLink Career Center system.
- (7) Monitor and review the development plan of the common Web-based intake form for workforce development programs.
- (8) Study any other matter related to the workforce development system that the Committee deems necessary to accomplish its purpose.

SECTION 7.(c) Additional Powers. – The Joint Legislative Workforce Development System Reform 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 7.(d) Reports to Committee. – Whenever a State agency is required by law to report to the General Assembly or to any of its permanent, study, or oversight committees or subcommittees on matters affecting the workforce development system, the Department shall transmit a copy of the report to the cochair of the Joint Legislative Workforce Development System Reform Oversight Committee.

SECTION 7.(e) Interim and Final Reports. – The Committee shall make an interim report to the 2014 Session of the 2013 General Assembly and a final report to the 2015 Regular Session of the 2015 General Assembly. The interim and final reports may contain any legislation needed to implement a recommendation of the Committee. The Committee shall terminate upon filing its final report.

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

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Became law upon approval of the Governor at 12:31 p.m. on the 29th day of June, 2012.

Session Law 2012-132

S.B. 94

AN ACT DELAYING THE EFFECTIVE DATE OF OPERATING STANDARDS SET BY THE 911 BOARD FOR PSAPS.

The General Assembly of North Carolina enacts:

SECTION 1. No operating standards set by the 911 Board pursuant to Article 3 of Chapter 62A of the General Statutes shall be effective until January 1, 2014.

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

In the General Assembly read three times and ratified this the 27th day of June, 2012.

Became law upon approval of the Governor at 12:34 p.m. on the 29th day of June, 2012.

Session Law 2012-133

H.B. 964

AN ACT TO CREATE THE NORTH CAROLINA LONGITUDINAL DATA SYSTEM AND GOVERNING BOARD; AND TO PROVIDE THAT PRIVATE COLLEGES AND UNIVERSITIES, NONPUBLIC SCHOOLS, AND THE NORTH CAROLINA INDEPENDENT COLLEGES AND UNIVERSITIES ARE NOT LIABLE FOR A BREACH OF CONFIDENTIALITY CAUSED BY THE ACT OR OMISSION OF A STATE AGENCY, LOCAL SCHOOL ADMINISTRATIVE UNIT, COMMUNITY COLLEGE, OR CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The General Statutes are amended by adding a new Chapter to read:

"Chapter 116E.

"Education Longitudinal Data System.

"Article 1.

"North Carolina Longitudinal Data System.

"§ 116E-1. Definitions.

- (1) "Board" means the governing board of the North Carolina Longitudinal Data System.
- (2) "De-identified data" means a data set in which parent and student identity information, including the unique student identifier and student social security number, has been removed.
- (3) "FERPA" means the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.
- (4) "Student data" means data relating to student performance. Student data includes State and national assessments, course enrollment and completion, grade point average, remediation, retention, degree, diploma or credential attainment, enrollment, discipline records, and demographic data. Student data does not include juvenile delinquency records, criminal records, and medical and health records.

- (5) "System" means the North Carolina Longitudinal Data System.
- (6) "Unique Student Identifier" or "UID" means the identifier assigned to each student by one of the following:
 - a. A local school administrative unit based on the identifier system developed by the Department of Public Instruction.
 - b. An institution of higher education, nonpublic school, or other State agency operating or overseeing an educational program, if the student has not been assigned an identifier by a local school administrative unit.
- (7) "Workforce data" means data relating to employment status, wage information, geographic location of employment, and employer information.

"§ 116E-2. Purpose of the North Carolina Longitudinal Data System.

(a) The North Carolina Longitudinal Data System is a statewide data system that contains individual-level student data and workforce data from all levels of education and the State's workforce. The purpose of the System is to do the following:

- (1) Facilitate and enable the exchange of student data among agencies and institutions within the State.
- (2) Generate timely and accurate information about student performance that can be used to improve the State's education system and guide decision makers at all levels.
- (3) Facilitate and enable the linkage of student data and workforce data.

(b) The linkage of student data and workforce data for the purposes of the System shall be limited to no longer than five years from the later of the date of the student's completion of secondary education or the date of the student's latest attendance at an institution of higher education in the State.

"§ 116E-3. North Carolina Longitudinal Data System Board.

(a) There is established the North Carolina Longitudinal Data System Board which shall consist of the following 18 members:

- (1) The Superintendent of Public Instruction, or the Superintendent's designee.
- (2) The President of The University of North Carolina, or the President's designee.
- (3) The President of the North Carolina Community College System, or the President's designee.
- (4) The Secretary of the Department of Health and Human Services, or the Secretary's designee.
- (5) The Assistant Secretary of the Department of Commerce, Division of Employment Security, or the Assistant Secretary's designee.
- (6) The Secretary of the Department of Revenue, or the Secretary's designee.
- (7) The Commissioner of Labor, or the Commissioner's designee.
- (8) The President of the North Carolina Independent Colleges and Universities, Inc., or the President's designee.
- (9) The Commissioner of Motor Vehicles, Department of Transportation, or the Commissioner's designee.
- (10) The State Chief Information Officer, or the Officer's designee.
- (11) The State Controller, or the Controller's designee.
- (12) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.
- (13) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
- (14) One member appointed by the Governor, to serve at the Governor's pleasure.

(b) Appointed members of the Board shall serve terms of four years. Appointed members may be reappointed but shall not serve more than two consecutive terms. Vacancies among appointed members shall be filled by the appointing entity and shall be for the remainder of the vacant term.

(c) The Board shall elect from the appointed members a chair and a vice-chair for a term of two years. A chair may serve no more than two consecutive terms.

(d) Members of the Board shall receive such per diem compensation and necessary travel and subsistence expenses while engaged in the official discharge of the official duties as is provided by law for members of State boards and commissions.

"§ 116E-4. Powers and duties of the Board.

(a) The Board shall have the following powers and duties:

- (1) Develop an implementation plan to phase in the establishment and operation of the System.
- (2) Provide general oversight and direction to the System.
- (3) Approve the annual budget for the System.
- (4) Before the use of any individual data in the System, the Board shall do the following:
 - a. Create an inventory of the individual student data proposed to be accessible in the System and required to be reported by State and federal education mandates.
 - b. Develop and implement policies to comply with FERPA and any other privacy measures, as required by law or the Board.
 - c. Develop a detailed data security and safeguarding plan that includes the following:
 1. Authorized access and authentication for authorized access.
 2. Privacy compliance standards.
 3. Privacy and security audits.
 4. Breach notification and procedures.
 5. Data retention and disposition policies.
- (5) Oversee routine and ongoing compliance with FERPA and other relevant privacy laws and policies.
- (6) Ensure that any contracts that govern databases that are outsourced to private vendors include express provisions that safeguard privacy and security and include penalties for noncompliance.
- (7) Designate a standard and compliance time line for electronic transcripts that includes the use of UID to ensure the uniform and efficient transfer of student data between local school administrative units and institutions of higher education.
- (8) Review research requirements and set policies for the approval of data requests from State and local agencies, the General Assembly, and the public.
- (9) Establish an advisory committee on data quality to advise the Board on issues related to data auditing and tracking to ensure data validity.

(b) The Board shall adopt rules according to Chapter 150B of the General Statutes as provided in G.S. 116E-6 to implement the provisions of this Article.

(c) The Board shall report annually to the Joint Legislative Education Oversight Committee by December 15. The report shall include the following:

- (1) An update on the implementation of the System's activities.
- (2) Any proposed or planned expansion of System data.
- (3) Any other recommendations made by the Board, including the most effective and efficient configuration for the System.

"§ 116E-5. North Carolina Longitudinal Data System.

(a) There is created the North Carolina Longitudinal Data System. The System shall be located administratively within the Department of Public Instruction but shall exercise its powers and duties independently of the Department of Public Instruction and the State Board of Education.

(b) The System shall allow users to do the following:

- (1) Effectively organize, manage, disaggregate, and analyze individual student and workforce data.
- (2) Examine student progress and outcomes over time, including preparation for postsecondary education and the workforce.

(c) The System shall be considered an authorized representative of the Department of Public Instruction, The University of North Carolina, and the North Carolina System of Community Colleges under applicable federal and State statutes for purposes of accessing and compiling student record data for research purposes.

(d) The System shall perform the following functions and duties:

(1) Serve as a data broker for the System, including data maintained by the following:

- a. The Department of Public Instruction.
- b. Local boards of education, local school administrative units, and charter schools.
- c. The University of North Carolina and its constituent institutions.
- d. The Community Colleges System Office and local community colleges.
- e. The North Carolina Independent College and Universities, Inc., and private colleges or universities.
- f. Nonpublic schools serving elementary and secondary students.
- g. The Department of Commerce, Division of Employment Security.
- h. The Department of Revenue.
- i. The Department of Health and Human Services.
- j. The Department of Labor.

(2) Ensure routine and ongoing compliance with FERPA, the Internal Revenue Code, and other relevant privacy laws and policies, including the following:

- a. The required use of de-identified data in data research and reporting.
- b. The required disposition of information that is no longer needed.
- c. Providing data security, including the capacity for audit trails.
- d. Providing for performance of regular audits for compliance with data privacy and security standards.
- e. Implementing guidelines and policies that prevent the reporting of other potentially identifying data.

(3) Facilitate information and data requests for State and federal education reporting with existing State agencies as appropriate.

(4) Facilitate approved public information requests.

(5) Develop a process for obtaining information and data requested by the General Assembly and Governor of current de-identified data and research.

(e) Use of data accessible through the System shall be regulated in the following ways:

(1) Direct access to data shall be restricted to authorized staff of the System.

(2) Only de-identified data shall be used in the analysis, research, and reporting conducted by the System.

(3) The System shall only use aggregate data in the release of data in reports and in response to data requests.

(4) Data that may be identifiable based on the size or uniqueness of the population under consideration shall not be reported in any form by the System.

- (5) The System shall not release information that may not be disclosed under FERPA, the Internal Revenue Code, and other relevant privacy laws and policies.
- (6) Individual or personally identifiable data accessed through the System shall not be a public record under G.S. 132-1.
- (f) The System may receive funding from the following sources:
 - (1) State appropriations.
 - (2) Grants or other assistance from local school administrative units, community colleges, constituent institutions of The University of North Carolina, or private colleges and universities.
 - (3) Federal grants.
 - (4) Any other grants or contributions from public or private entities received by the System.

"§ 116E-6. Data sharing.

(a) Local school administrative units, charter schools, community colleges, constituent institutions of The University of North Carolina, and State agencies shall do all of the following:

- (1) Comply with the data requirements and implementation schedule for the System as set forth by the Board.
- (2) Transfer student data and workforce data to the System in accordance with the data security and safeguarding plan developed by the Board under G.S. 116E-5.

(b) Private colleges and universities, the North Carolina Independent Colleges and Universities, Inc., and nonpublic schools may transfer student data and workforce data to the System in accordance with the data security and safeguarding plan developed by the Board under G.S. 116E-5."

SECTION 1.(b) G.S. 105-259(b) is amended by adding a new subdivision to read:

"(43) To furnish requested workforce data to the North Carolina Longitudinal Data System, as required by G.S. 116E-6. Information furnished to the North Carolina Longitudinal Data System shall be provided in a nonidentifying form for statistical and analytical purposes to facilitate and enable the linkage of student data and workforce data and shall not include information allowing the identification of specific taxpayers."

SECTION 1.(c) Notwithstanding G.S. 116E-6 as created by this act, State agencies that have not received an appropriation or sufficient grant funding to support participation in a longitudinal data system shall not be required to submit data to the System prior to July 1, 2015.

SECTION 1.(d) Appointments to the North Carolina Longitudinal Data System Board shall be made by the appointing entity no later than August 1, 2012. The State Board of Education, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, the Division of Employment Security of the Department of Commerce, the Department of Revenue, the Department of Health and Human Services, the Division of Motor Vehicles of the Department of Transportation, and the Department of Labor, in consultation with the North Carolina Independent Colleges and Universities, Inc., shall establish the North Carolina Longitudinal Data System that shall be fully operational by July 1, 2014. Prior to facilitating access to any individual data in the North Carolina Longitudinal Data System, the North Carolina Longitudinal Data System Board shall report to the Joint Legislative Education Oversight Committee on the inventory of individual student data proposed to be maintained in the System, the policies of the Board to comply with the federal Family Educational Rights and Privacy Act, Internal Revenue Code and other privacy measures required by law and the Board, and a data security and safeguarding plan for the System. The Board shall (i) evaluate the efficiency, effectiveness, and cost in structuring the System as a federated data system or a centralized data warehouse and (ii) assess the technical capabilities

and costs of each entity for data sharing through the System, and shall report to the Joint Legislative Education Oversight Committee on those issues by January 15, 2013.

SECTION 2. Article 39 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-566.1. Disclosure of student data and records by nonpublic schools.

A nonpublic school that discloses personally identifiable information in student data or records according to the terms of a written agreement with a State agency, local school administrative unit, community college, or constituent institution of The University of North Carolina, in compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, shall not be liable for a breach of confidentiality, disclosure, use, retention, or destruction of the student data or records if the breach, disclosure, use, retention, or destruction results from actions or omissions of either (i) the State agency, local school administrative unit, community college, or constituent institution of The University of North Carolina to which the data was provided or (ii) persons provided access to the data or records by those entities."

SECTION 3. Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 27A.

"Disclosure of Student Data and Records by Private Institutions.

"§ 116-229.1. Disclosure of student data and records by private colleges and universities.

(a) A private college or university that discloses personally identifiable information in student data or records according to the terms of a written agreement with a State agency, local school administrative unit, community college, constituent institution of The University of North Carolina, or the North Carolina Independent Colleges and Universities, Inc., in compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, shall not be liable for a breach of confidentiality, disclosure, use, retention, or destruction of the student data or records if the breach, disclosure, use, retention, or destruction results from actions or omissions of either (i) the State agency, local school administrative unit, community college, or constituent institution of The University of North Carolina to which the data was provided or (ii) persons provided access to the data or records by those entities.

(b) The North Carolina Independent Colleges and Universities, Inc., shall not be liable for a breach of confidentiality, disclosure, use, retention, or destruction of student data or records transferred on behalf of a private college or university to a State agency, local school administrative unit, community college, or constituent institution of The University of North Carolina if the breach, disclosure, use, retention, or destruction results from actions or omissions of either (i) the State agency, local school administrative unit, community college, or constituent institution of The University of North Carolina to which the data was provided or (ii) persons provided access to the data or records by those entities."

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

In the General Assembly read three times and ratified this the 27th day of June, 2012.

Became law upon approval of the Governor at 12:37 p.m. on the 29th day of June, 2012.

Session Law 2012-134

S.B. 828

AN ACT TO MAKE CHANGES TO THE UNEMPLOYMENT INSURANCE LAWS.

The General Assembly of North Carolina enacts:

PART I. CHANGE THE LAW TO CONTINUE THE THREE-YEAR LOOKBACK TRIGGER FOR EXTENDED BENEFITS

SECTION 1.(a) The General Assembly finds that it enacted Section 6.16 of Session Law 2011-145 and, in so doing, validated the effects of the Governor's Executive Order No. 113 with the stated intent to allow extended benefits to be paid under the Tax Relief Act of

2010 so long as payment of the extended benefits did not hinder the State's ability to reduce its debt owed to the federal government for unemployment benefits.

SECTION 1.(b) It is deemed, therefore, to be in the best interest of the people of this State that the General Assembly now ratify and hereby validate the effects of the Governor's Executive Order No. 113.

SECTION 1.(c) Section 6.16(d) of S.L. 2011-145 reads as rewritten:

"SECTION 6.16.(d) This section becomes effective April 16, 2011, and expires ~~January 1, 2012~~, January 1, 2013."

SECTION 1.(d) G.S. 96-12.01(a1)(4)c.3. reads as rewritten:

"3. This section applies as provided under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) as it existed on December 17, 2010, and is applicable to compensation for weeks of unemployment beginning after December 17, 2010, and ending on or before ~~December 31, 2011~~, December 31, 2012, provided that:

- I. The average rate of (i) insured unemployment, not seasonally adjusted, equaled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in all of the preceding three calendar years and equaled or exceeded five percent (5%) or (ii) total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent (6.5%); and
- II. The average rate of total unemployment in this State, seasonally adjusted, as determined by the United States Secretary of Labor, for the three-month period referred to in this subsection, equals or exceeds one hundred ten percent (110%) of the average for any of the corresponding three-month periods ending in the three preceding calendar years."

SECTION 1.(e) G.S. 96-12.01(a1)(4)e.3. reads as rewritten:

"3. This subdivision applies as provided under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) as it existed on December 17, 2010, and is applicable to compensation for weeks of unemployment beginning after December 17, 2010, and ending on or before ~~December 31, 2011~~, December 31, 2012, provided that:

- I. The average rate of total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds eight percent (8%); and
- II. The average rate of total unemployment in this State, seasonally adjusted, as determined by the United States Secretary of Labor, for the three-month period referred to in this subdivision equals or exceeds one

hundred ten percent (110%) of the average for any of the corresponding three-month periods ending in the three preceding calendar years."

SECTION 1.(f) To maintain the rule of law with respect to State and federal relations pertaining to employment security laws in North Carolina, any executive order issued by the Governor that purports to extend unemployment insurance benefits, whether those benefits will be paid from federal or State funds, is void ab initio, unless the executive order is issued upon authority that is conferred expressly by an act enacted by the General Assembly or granted specifically to the Governor by the Congress of the United States.

SECTION 1.(g) This section is effective when it becomes law and applies retroactively to January 1, 2012.

PART II. RESOLUTION OF OUTSTANDING ISSUES FROM S.L. 2011-401

SECTION 2.(a) The Current Operations Appropriations Act for the 2012-2013 fiscal year shall provide for the annual salaries of the Board of Review, as provided in G.S. 96-4(b).

SECTION 2.(b) G.S. 96-14(2) reads as rewritten:

"§ 96-14. Disqualification for benefits.

An individual shall be disqualified for benefits:

...

- (2) For the duration of the individual's unemployment beginning with the first day of the first week after the disqualifying act occurs with respect to which week an individual files a claim for benefits if it is determined by the Division that such individual is, at the time such claim is filed, unemployed because he or she was discharged for misconduct connected with the work. Misconduct connected with the work is defined as conduct evincing a willful or wanton disregard of the employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of an employee or has explained orally or in writing to an employee or conduct evincing carelessness or negligence of such degree or recurrence as to manifest an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. ~~intentional acts or omissions evincing disregard of an employer's interest or standards of behavior which the employer has a right to expect or has explained orally or in writing to an employee or evincing carelessness or negligence of such degree as to manifest equal disregard.~~ The following examples are prima facie evidence of misconduct, which may be rebutted by the claimant:

~~"Discharge for misconduct with the work" as used in this section is defined to include but not be limited~~

- a. ~~separation initiated by an employer for violating~~ Violating the employer's written alcohol or illegal drug policy; reporting policy.
- b. Reporting to work significantly impaired by alcohol or illegal drugs; consuming drugs.
- c. Consuming alcohol or illegal drugs on employer's premises; conviction premises.
- d. Conviction by a court of competent jurisdiction for manufacturing, selling, or distribution of a controlled substance punishable under G.S. 90-95(a)(1) or G.S. 90-95(a)(2) while in the employ of said employer; being if the offense is related to or connected with an employee's work for an employer or is in violation of a reasonable work rule or policy.

- e. Being terminated or suspended from employment after arrest or conviction for an offense involving violence, sex crimes, or illegal drugs; any drugs if the offense is related to or connected with an employee's work for an employer or is in violation of a reasonable work rule or policy.
- f. Any physical violence whatsoever related to an employee's work for an employer, including, but not limited to, physical including physical violence directed at supervisors, subordinates, coworkers, vendors, customers, or the general public; inappropriate public.
- g. Inappropriate comments or behavior towards supervisors, subordinates, coworkers, vendors, customers, or to the general public relating to any federally protected characteristic which creates a hostile work environment; theft environment.
- h. Theft in connection with the employment; forging employment.
- i. Forging or falsifying any document or data related to employment, including a previously submitted application for employment; violation employment.
- j. Violating of an employer's written absenteeism policy; refusing policy.
- k. Refusing to perform reasonably assigned work tasks or failing to adequately perform employment duties as evidenced by no fewer than three written reprimands in the 12 months immediately preceding the employee's termination. This

The phrase "discharge for misconduct connected with the work" does not include the discharge or an employer-initiated separation of a severely disabled veteran, as defined in G.S. 96-8, for any act or omission of the veteran that the Division determines are attributed to a disability incurred or aggravated in the line of duty during active military service, or to the veteran's absence from work to obtain care and treatment of a disability incurred or aggravated in the line of duty during active military service."

SECTION 2.(c) G.S. 96-15(b)(2) reads as rewritten:

- "(2) Adjudication. – When a protest is made by the claimant to the initial or monetary determination, or a question or issue is raised or presented as to the eligibility of a claimant under G.S. 96-13, or whether any disqualification should be imposed under G.S. 96-14, or benefits denied or adjusted pursuant to G.S. 96-18, the matter shall be referred to an adjudicator. The adjudicator may consider any matter, document or statement deemed to be pertinent to the issues, including telephone conversations, and after such consideration shall render a conclusion as to the claimant's benefit entitlements. The adjudicator shall notify the claimant and all other interested parties of the conclusion reached. The conclusion of the adjudicator shall be deemed the final decision of the Division unless within 30 days after the date of notification or mailing of the conclusion, whichever is earlier, a written appeal is filed pursuant to rules adopted by the Division. The Division shall be deemed an interested party for such purposes and may remove to itself or transfer to an appeals referee the proceedings involving any claim pending before an adjudicator.

Provided, any interested employer shall be allowed ~~30~~10 days from the ~~earlier of mailing or~~ delivery of the notice of the filing of a claim against the employer's account to protest the claim and have the claim referred to an adjudicator for a decision on the question or issue raised. A copy of the notice of the filing shall be sent contemporaneously to the employer by telefacsimile transmission if a fax number is on file. Provided further, no

question or issue may be raised or presented by the Division as to the eligibility of a claimant under G.S. 96-13, or whether any disqualification should be imposed under G.S. 96-14, after 45 days from the first day of the first week after the question or issue occurs with respect to which week an individual filed a claim for benefits. None of the provisions of this subsection shall have the force and effect nor shall the same be construed or interpreted as repealing any other provisions of G.S. 96-18.

An employer shall receive written notice of the employer's appeal rights and any forms that are required to allow the employer to protest the claim. The forms shall include a section referencing the appropriate rules pertaining to appeals and the instructions on how to appeal."

SECTION 2.(d) G.S. 96-15(f) reads as rewritten:

"(f) Procedure. – The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules adopted by the Division for determining the rights of the parties, whether or not such rules conform to common-law or statutory rules of evidence and other technical rules of procedure. ~~All~~

All testimony at any hearing before an appeals referee upon a disputed claim shall be recorded unless the parties have waived the evidentiary hearing and entered into a stipulation resolving the issues pending before the appeals referee, hearing officer, or other employee assigned to make the decision, recording is waived by all interested parties. If the testimony is recorded, it ~~but~~ need not be transcribed unless the disputed claim is further appealed and, one or more of the parties objects, under such rules as the Division may adopt, to being provided a copy of the tape recording of the hearing. Any other provisions of this Chapter notwithstanding, any individual receiving the transcript shall pay to the Division such reasonable fee for the transcript as the Division may by regulation provide. The fee so prescribed by the Division for a party shall not exceed the lesser of sixty-five cents (65¢) per page or sixty-five dollars (\$65.00) per transcript. The Division may by regulation provide for the fee to be waived in such circumstances as it in its sole discretion deems appropriate but in the case of an appeal in forma pauperis supported by such proofs as are required in G.S. 1-110, the Division shall waive the fee.

The parties may enter into a stipulation of the facts. If the appeals referee, hearing officer, or other employee assigned to make the decision believes the stipulation provides sufficient information to make a decision, then the appeals referee, hearing officer, or other employee assigned to make the decision may accept the stipulation and render a decision based on the stipulation. If the appeals referee, hearing officer, or other employee assigned to make the decision does not believe the stipulation provides sufficient information to make a decision, then the appeals referee, hearing officer, or other employee assigned to make the decision must reject the stipulation. The decision to accept or reject a stipulation must occur in a recorded hearing."

SECTION 2.(e) Subsections (b) through (d) of this section become effective November 1, 2012. The remainder of this section is effective when it becomes law.

PART III. COMPLIANCE WITH THE TRADE ADJUSTMENT ASSISTANCE EXTENSION ACT OF 2011

SECTION 3.(a) G.S. 110-129.2(c) reads as rewritten:

"(c) Report Contents. – Each report required by this section shall contain the name, address, ~~and~~ social security number of the newly hired employee, the date services for remuneration were first performed by the newly hired employee, and the name and address of the employer and the employer's identifying number assigned under section 6109 of the Internal Revenue Code of 1986 and the employer's State employer identification number. Reports shall be made on the W-4 form or, at the option of the employer, an equivalent form, and may be transmitted magnetically, electronically, or by first-class mail."

SECTION 3.(b) G.S. 110-129.2(j) is amended by adding a new subdivision to read:

"(j) Definitions. – As used in this section, unless the context clearly requires otherwise, the term:

...

(5) "Newly hired employee" means (i) an employee who has not previously been employed by the employer and (ii) an employee who was previously employed by the employer but has been separated from such prior employment for at least 60 consecutive days."

SECTION 3.(c) G.S. 96-9(c)(2) is amended by adding a new sub-subdivision to read:

"(2) Charging of benefit payments. –

...

f. The Division shall charge benefits to an employer's account when it determines that an overpayment has been made to a claimant and it determines that both of the following conditions apply:

1. The overpayment occurred because the employer failed to respond timely or adequately to a written request of the Division for information relating to an unemployment compensation claim.
2. The employer exhibits a pattern of failure to respond timely or adequately by failing to respond to written requests from the Division for information relating to an unemployment compensation claim on two or more occasions. If an employer uses a third-party agent to respond on its behalf to the Division, then the actions of the agent must be considered when determining a pattern of failure to respond timely or adequately. A pattern is established based on the agent's behavior overall and not only with respect to its behavior related to the employer.

For purposes of this sub-subdivision, written notification may include a request sent electronically. A response is considered untimely if it fails to be made within the time allowed under G.S. 96-15(b)(2). A response is considered inadequate if it fails to provide sufficient facts to enable the Division to make a correct determination of benefits. However, a response may not be considered inadequate if the Division fails to request the necessary information.

The prohibition on the noncharging of an employer's account under this sub-subdivision applies to each week of unemployment compensation that is an overpayment until the Division makes a determination that the claimant is no longer eligible for the overpaid amount and stops making the overpayment. If the claim is a combined-wage claim, the determination of noncharging for the combined-wage claim shall be made by the paying state. If the response from the employer does not meet the criteria established by the paying state for an adequate or timely response, the paying state must promptly notify the transferring state of its determination and the employer must be appropriately charged. The Division may waive the prohibition for good cause."

SECTION 3.(d) G.S. 96-18 is amended by adding a new subsection to read:

"(h) Mandatory Federal Penalty. – A person who has been held ineligible for benefits under subsection (e) of this section and who, because of those same acts or omissions, has received any sum as benefits under this Chapter to which the person is not entitled shall be assessed a penalty in an amount equal to fifteen percent (15%) of the amount of the erroneous payment. The penalty amount shall be payable to the Unemployment Insurance Fund. The penalty applies to an erroneous payment made under any State program providing for the payment of unemployment compensation as well as an erroneous payment made under any federal program providing for the payment of unemployment compensation. The notice of determination or decision advising the person that benefits have been denied or adjusted pursuant to subsection (e) of this section must include the reason for the finding of an erroneous payment, the penalty amount assessed under this subsection, and the reason the penalty has been applied.

The penalty amount may be collected in any manner allowed for the recovery of the erroneous payment, except that the penalty amount may not be recovered through offsets of future benefits. When a recovery with respect to an erroneous payment is made, any recovery applies first to the principal of the erroneous payment, then to the federally mandated penalty amount imposed under this subsection, and finally to any other amounts due."

SECTION 3.(e) G.S. 96-6(a) reads as rewritten:

"(a) Establishment and Control. – There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an Unemployment Insurance Fund, which shall be administered by the Division's Employment Insurance Section exclusively for the purposes of this Chapter. All moneys in the fund shall be commingled and undivided. This fund shall consist of:

- (1) All contributions collected under this Chapter, together with any interest earned upon any moneys in the ~~fund;~~fund.
- (2) Any property or securities acquired through the use of moneys belonging to the ~~fund;~~fund.
- (3) All earnings of such property or ~~securities;~~securities.
- (4) Any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the Social Security Act as ~~amended;~~amended.
- (5) All moneys credited to this State's account in the Unemployment Trust Fund pursuant to section 903 of Title IX of the Social Security Act, as amended, ~~(U.S.C.A. Title 42, sec. 1103 (a));~~(U.S.C.A. Title 42, sec. 1103 (a)).
- (6) All moneys paid to this State pursuant to section 204 of the Federal-State Extended Unemployment Compensation Act of ~~1970;~~1970.
- (7) Reimbursement payments in lieu of contributions.
- (8) Any federally mandated penalty amount assessed under G.S. 96-18(h).
All moneys in the fund shall be commingled and undivided."

SECTION 3.(f) Subsection (c) of this section becomes effective October 1, 2013, and applies to an overpayment established on or after that date. Subsections (d) and (e) of this section become effective October 1, 2013, and apply to an erroneous payment determined under G.S. 96-18(e) to be a fraudulent overpayment on or after that date. The remainder of this section becomes effective July 1, 2012.

PART IV. ENHANCE UNEMPLOYMENT COMPENSATION FRAUD DETECTION AND RECOVERY, AS RECOMMENDED BY THE HOUSE UNEMPLOYMENT FRAUD TASK FORCE

SECTION 4.(a) G.S. 96-18(a) reads as rewritten:

"(a) ~~Any~~It shall be unlawful for any person who makes to make a false statement or representation knowing it to be false or to knowingly fails~~fail~~ to disclose a material fact to obtain or increase any benefit under this Chapter or under an employment security law of any other state, the federal government, or of a foreign government, either for himself or any other

~~person, shall be guilty of a Class 1 misdemeanor, and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.~~ person. Records, with any necessary authentication thereof, required in the prosecution of any criminal action brought by another state or foreign government for misrepresentation to obtain benefits under the law of this State shall be made available to the agency administering the employment security law of any such state or foreign government for the purpose of such prosecution. Photostatic copies of all records of agencies of other states or foreign governments required in the prosecution of any criminal action under this section shall be as competent evidence as the originals when certified under the seal of such agency, or when there is no seal, under the hand of the keeper of such records.

- (1) A person who violates this subsection shall be found guilty of a Class I felony if the value of the benefit wrongfully obtained is more than four hundred dollars (\$400.00).
- (2) A person who violates this subsection shall be found guilty of a Class 1 misdemeanor if the value of the benefit wrongfully obtained is four hundred dollars (\$400.00) or less."

SECTION 4.(b) G.S. 96-18(g)(1) is repealed.

SECTION 4.(c) G.S. 96-18(g)(2) reads as rewritten:

- "(2) Any person who has received any sum as benefits under this Chapter by reason of the nondisclosure or misrepresentation by him or by another of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) or has been paid benefits to which he was not entitled for any reason (including errors on the part of any representative of the Division) ~~other than subparagraph (1) above~~ shall be liable to repay such sum to the Division as provided in ~~subparagraph (3) below, provided no such recovery or recoupment of such sum may be initiated after three years from the last day of the year in which the overpayment occurred.~~ subdivision (3) of this subsection."

SECTION 4.(d) The Department of the Treasury, Financial Management Service, is the federal government's central debt collection agency. It develops and maintains a centralized offset program known as the Treasury Offset Program (TOP), by which payments are offset to collect delinquent debts owed to federal agencies and states. State Unemployment Compensation debts are now eligible for referral to the Program, pursuant to Public Law 110-32 and Public Law 111-291.

It is the desire of the General Assembly for the State to participate in the Unemployment Insurance Compensation Debt Program on or before January 1, 2013. The Division of Employment Security is required to report to the House Unemployment Fraud Task Force by September 1, 2012, November 1, 2012, and January 1, 2013, on the implementation of the TOP. The report should contain, at a minimum, the following:

- (1) An implementation time line, including a go-live date and status update on where the Division is in the process.
- (2) A detailed list of implementation requirements. For each requirement, the Division is to provide any barriers and proposed solutions to each barrier.
- (3) An itemized accounting of the cost to implement TOP, including the source of funds used. Recurring and nonrecurring costs shall be broken out accordingly.
- (4) For the September 1 report, the Division is to provide an estimate of how much it anticipates recovering annually through TOP. The report should include the methodology used to arrive at this estimate.

SECTION 4.(e) Subsection (a) of this section becomes effective December 1, 2012, and applies to offenses committed on or after that date. Subsections (b) and (c) of this section become effective October 1, 2012, and apply to an overpayment established on or after that date. The remainder of this section is effective when it becomes law.

PART V. TECHNICAL CHANGES REQUESTED BY THE DIVISION OF EMPLOYMENT SECURITY

SECTION 5.(a) The title of Article 4 of Chapter 96 of the General Statutes reads as rewritten:

"Article 4.

"Labor and Economic Analysis Division: Job Training, Education, and Placement Information Management."

SECTION 5.(b) G.S. 96-31 reads as rewritten:

"§ 96-31. Definitions.

As used in this Article, unless the context clearly requires otherwise, the term:

- (1) "CFS" means the common follow-up information management system developed by ~~DES~~the Labor and Economic Analysis Division under this Article.
- (2) ~~"DES" means the Division of Employment Security.~~
- (3) Repealed by Session Laws 2000, c. 140, s. 93.1(d).
- (4) "State job training, education, and placement program" or "State-funded program" means a program operated by a State or local government agency or entity and supported in whole or in part by State or federal funds, that provides job training and education or job placement services to program participants. The term does not include on-the-job training provided to current employees of the agency or entity for the purposes of professional development."

SECTION 5.(c) G.S. 96-32 reads as rewritten:

"§ 96-32. Common follow-up information management system created.

(a) The ~~DES~~Labor and Economic Analysis Division shall develop, implement, and maintain a common follow-up information management system for tracking the employment status of current and former participants in State job training, education, and placement programs. The system shall provide for the automated collection, organization, dissemination, and analysis of data obtained from State-funded programs that provide job training and education and job placement services to program participants. In developing the system, the ~~DES~~Division shall ensure that data and information collected from State agencies is confidential, not open for general public inspection, and maintained and disseminated in a manner that protects the identity of individual persons from general public disclosure.

(b) The ~~DES~~Labor and Economic Analysis Division shall adopt procedures and guidelines for the development and implementation of the CFS authorized under this section.

(c) Based on data collected under the CFS, the ~~DES~~Labor and Economic Analysis Division shall evaluate the effectiveness of job training, education, and placement programs to determine if specific program goals and objectives are attained, to determine placement and completion rates for each program, and to make recommendations regarding the continuation of State funding for programs evaluated."

SECTION 5.(d) G.S. 96-33 reads as rewritten:

"§ 96-33. State agencies required to provide information and data.

(a) Every State agency and local government agency or entity that receives State or federal funds for the direct or indirect support of State job training, education, and placement programs shall provide to the ~~DES~~Labor and Economic Analysis Division all data and information available to or within the agency or entity's possession requested by the ~~DES~~Division for input into the common follow-up information management system authorized under this ~~Article~~Article and for such other official functions as are performed by the Division. The Division of Employment Security shall provide all information in its possession and control requested by the Division in order for the Division to accomplish the purpose set forth in this Article and such other official functions performed by it.

(b) Each agency or entity required to report information and data to the ~~DES Labor and Economic Analysis Division~~ under this Article shall maintain true and accurate records of the information and data requested by the ~~DES Division~~. The records shall be open to ~~DES the Division~~ for inspection and copying at reasonable times and as often as necessary. Each agency or entity shall further provide, upon request by ~~DES, the Division~~, sworn or unsworn reports with respect to persons employed or trained by the agency or entity, as deemed necessary by the ~~DES Division~~ to carry out the purposes of this Article. Information obtained by the ~~DES Division~~ from the ~~agency or entity~~ agency, entity, or the Division of Employment Security shall be held by ~~DES the Division~~ as ~~confidential~~ confidential, subject to the State and federal laws governing treatment of such information, and shall not be published or open to public inspection other than in a manner that protects the identity of individual persons and employers."

SECTION 5.(e) G.S. 96-35 reads as rewritten:

"§ 96-35. Reports on common follow-up system activities.

(a) The ~~DES Secretary~~ shall present annually by May 1 to the General Assembly and to the Governor a report of CFS activities for the preceding calendar year. The report shall include information on and evaluation of job training, education, and placement programs for which data was reported by State and local agencies subject to this Article. Evaluation of the programs shall be on the basis of fiscal year data.

(b) The ~~DES Secretary~~ shall report to the Governor and to the General Assembly upon the convening of each biennial session, its evaluation of and recommendations regarding job training, education, and placement programs for which data was provided to the CFS."

SECTION 5.(f) This section is effective when it becomes law.

PART VI. NC FACTS PROGRAM

SECTION 6.(a) G.S. 96-4(x)(1) reads as rewritten:

"(x) Confidentiality of Records, Reports, and Information Obtained from Claimants, Employers, and Units of Government. Disclosure and redisclosure of confidential information shall be consistent with 20 C.F.R. Part 603 and any written guidance promulgated and issued by the U.S. Department of Labor consistent with this regulation and any successor regulation. To the extent a disclosure or redisclosure of confidential information is permitted or required by this federal regulation, the Department's authority to disclose or redisclose the information includes the following:

- (1) Confidentiality of Information Contained in Records and Reports. – (i) Except as hereinafter otherwise provided, it shall be unlawful for any person to obtain, disclose, or use, or to authorize or permit the use of any information which is obtained from any employing unit, individual, or unit of government pursuant to the administration of this Chapter or G.S. 108A-29. (ii) Any claimant or employer or their legal representatives shall be supplied with information from the records of the Division to the extent necessary for the proper presentation of claims or defenses in any proceeding under this Chapter. Notwithstanding any other provision of law, any claimant may be supplied, subject to restrictions as the Division may by regulation prescribe, with any information contained in his payment record or on his most recent monetary determination, and any individual, as well as any interested employer, may be supplied with information as to the individual's potential benefit rights from claim records. (iii) Subject to restrictions as the Secretary may by regulation provide, information from the records of the Division may be made available to any agency or public official for any purpose for which disclosure is required by statute or regulation. (iv) The Division may, in its sole discretion, permit the use of information in its possession by public officials in the performance of their public duties. (v) The Division shall release the payment and the amount of

unemployment compensation benefits upon receipt of a subpoena in a proceeding involving child support. (vi) The Division shall furnish to the State Controller any information the State Controller needs to prepare and publish a comprehensive annual financial report of the State or to track debtors of the State. (vii) The Secretary may disclose or authorize redisclosure of any confidential information to an individual, agency, or entity, public or private, consistent with the requirements enumerated in 20 C.F.R. Part 603 or any successor regulation and any written guidance promulgated and issued by the U.S. Department of Labor consistent with 20 C.F.R. Part 603.

...."

SECTION 6.(b) 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 27th day of June, 2012.

Became law upon approval of the Governor at 12:39 p.m. on the 29th day of June, 2012.

Session Law 2012-135

H.B. 237

AN ACT PROVIDING THAT THE NORTH CAROLINA RATE BUREAU SHARE WITH THE NORTH CAROLINA INDUSTRIAL COMMISSION INFORMATION ON THE STATUS OF WORKERS' COMPENSATION INSURANCE COVERAGE ON EMPLOYERS IN THIS STATE AND MAKING CLARIFYING, CONFORMING, AND OTHER CHANGES RELATING TO THE WORKERS' COMPENSATION LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 58-36-16 reads as rewritten:

"§ 58-36-16. **Bureau to share information with Department of Labor.**Labor and North Carolina Industrial Commission.

The Bureau shall provide to the Department of Labor and the North Carolina Industrial Commission information from the Bureau's records indicating each employer's experience rate modifier established for the purpose of setting premium rates for workers' compensation insurance and the name and business address of each employer whose workers' compensation coverage is provided through the assigned-risk pool pursuant to G.S. 58-36-1. Information provided to the Department of Labor and the North Carolina Industrial Commission with respect to experience rate modifiers shall include the name of the employer and the employer's most current intrastate or interstate experience rate modifier. The information provided to the Department and the Commission under this section shall be confidential and not open for public inspection. The Bureau shall be immune from civil liability for ~~erroneous information released by the Bureau~~ releasing information pursuant to this section, even if the information is erroneous, provided that the Bureau acted in good faith and without malicious or wilful intent to harm in releasing the ~~erroneous~~ information."

SECTION 1.(b) Article 36 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-36-17. Bureau to share information with the North Carolina Industrial Commission.

The Bureau shall provide to the North Carolina Industrial Commission information contained in the Bureau's records indicating the status of workers' compensation insurance coverage on North Carolina employers as reported to the Bureau by the Bureau's member companies. The North Carolina Industrial Commission shall take such steps, including obtaining software or software licenses, as are necessary to be able to receive and process such information from the Bureau. The records provided to the North Carolina Industrial Commission under this section shall be confidential and shall not be public records as that term is defined in G.S. 132-1. The North Carolina Industrial Commission shall use the information provided pursuant to this section only to carry out its statutory duties and obligations under The North Carolina Workers' Compensation Act. The Bureau shall be immune from civil liability for releasing information pursuant to this section, even if the information is erroneous, provided the Bureau acted in good faith and without malicious or willful intent to harm in releasing the information."

SECTION 2. G.S. 97-25.6 reads as rewritten:

"§ 97-25.6. Reasonable access to medical information.

(a) Notwithstanding any provision of G.S. 8-53 to the contrary, and because discovery is limited pursuant to G.S. 97-80, it is the policy of this State to protect the employee's right to a confidential physician-patient relationship while allowing the parties to have reasonable access to all relevant medical information, including medical records, reports, and information necessary to the fair and swift administration and resolution of workers' compensation claims, while limiting unnecessary communications with and administrative requests to health care providers.

(b) As used in this section, "relevant medical information" means any medical record, report, or information that ~~is~~ is any of the following:

- (1) ~~restricted~~ Restricted to the particular evaluation, diagnosis, or treatment of the injury or disease for which compensation, including medical compensation, is ~~sought~~ sought.
- (2) ~~reasonably~~ Reasonably related to the injury or disease for which the employee claims ~~compensation~~ or compensation.
- (3) ~~related~~ Related to an assessment of the employee's ability to return to work as a result of the particular injury or disease.

(c) Relevant medical information shall be requested and provided subject to the following provisions:

- (1) Medical records. – An employer is entitled, without the express authorization of the employee, to obtain the employee's medical records containing relevant medical information from the employee's health care providers. In a claim in which the employer is not paying medical compensation to a health care provider from whom the medical records are sought, or in a claim denied pursuant to G.S. 97-18(c), the employer shall provide the employee with contemporaneous written notice of the request for medical records. ~~The~~ Upon the request of the employee, the employer shall provide the employee with a copy of any records received in response to this request within 30 days of its receipt by the employer.
- (2) Written communications with health care providers. – An employer may communicate with the employee's authorized health care provider in writing, without the express authorization of the employee, to obtain relevant medical information not available in the employee's medical records. The employer shall provide the employee with contemporaneous written notice of the written communication. The employer may request the following additional information:

- a. The diagnosis of the employee's ~~condition;~~condition.
- b. The appropriate course of ~~treatment;~~treatment.
- c. The anticipated time that the employee will be out of ~~work;~~work.
- d. The relationship, if any, of the employee's condition to the ~~employment;~~employment.
- e. Work restrictions resulting from the ~~condition;~~condition, including whether the employee is able to return to the employee's employment with the employer of injury as provided in an attached job description.
- f. The kind of work for which the employee may be ~~eligible;~~eligible.
- g. The anticipated time the employee will be ~~restricted; and~~restricted.
- h. Any permanent impairment as a result of the condition.

The employer shall provide a copy of the health care provider's response to the employee within 10 business days of its receipt by the employer.

- (3) Oral communications with health care providers. – An employer may communicate with the employee's authorized health care provider by oral communication to obtain relevant medical information not contained in the employee's medical records, not available through written communication, and not otherwise available to the employer, subject to the following:
 - a. The employer must give the employee prior notice of the purpose of the intended oral communication and an opportunity for the employee to participate in the oral communication at a mutually convenient time for the employer, employee, and health care provider.
 - b. The employer shall provide the employee with a summary of the communication with the health care provider within 10 business days of any oral communication in which the employee did not participate.

(d) Additional Information Submitted by the Employer. – Notwithstanding subsection (c) of this section, an employer may submit additional relevant medical information not already contained in the employee's medical records to the employee's authorized health care provider and may communicate in writing with the health care provider about the additional information in accordance with the following procedure:

- (1) The employer shall first notify the employee in writing that the employer intends to communicate additional information about the employee to the employee's health care provider. The notice shall include the employer's proposed written communication to the health care provider and the additional information to be submitted.
- (2) The employee shall have 10 business days from the postmark or verifiable facsimile or electronic mail either to consent or object to the employer's proposed written communication.
- (3) Upon consent of the employee or in the absence of the employee's timely ~~response, objection,~~ the employer may submit the additional information directly to the health care provider.
- (4) Upon making a timely objection, the employee may request a protective order to prevent the written communication, in which case the employer shall refrain from communicating with the health care provider until the Commission has ruled upon the employee's request. If the employee does not file with the Industrial Commission a request for a protective order within the time period set forth in subdivision (2) of subsection (d) of this section, the employer may submit the additional information directly to the health care provider. In deciding whether to allow the submission of additional information to the health care provider, in part or in whole, the Commission

shall determine whether the proposed written communication and additional information are pertinent to and necessary for the fair and swift administration and resolution of the workers' compensation claim and whether there is an alternative method to discover the information. If the Industrial Commission determines that any party has acted unreasonably by initiating or objecting to the submission of additional information to the health care provider, the Commission may assess costs associated with any proceeding, including reasonable attorneys' fees and deposition costs, against the offending party.

(e) Any medical records or reports that reflect evaluation, diagnosis, or treatment of the particular injury or disease for which compensation is sought or are reasonably related to the injury or disease for which the employee seeks compensation that are in the possession of a party shall be furnished to the requesting party by the opposing party when requested in writing, except for records or reports generated by a retained expert.

(f) Upon motion by an employee or the health care provider from whom medical records, reports, or information are sought, or with whom oral communication is sought, or upon its own motion, for good cause shown, the Commission may make any order which justice requires to protect an employee, health care provider, or other person from unreasonable annoyance, embarrassment, oppression, or undue burden or expense.

(g) Other forms of communication with a health care provider may be authorized by any of the following:

- (1) A valid written authorization voluntarily given and signed by the employee.
- (2) An agreement of the parties.
- (3) An order of the Industrial Commission issued upon a showing that the information sought is necessary for the administration of the employee's claim and is not otherwise reasonably obtainable under this ~~section~~ section or through other discovery authorized by the rules of the Commission.

(h) The employer may communicate with the health care provider to request medical bills or a response to a pending written request, or about nonsubstantive administrative matters without the express authorization of the employee.

(i) The Commission shall establish ~~annually~~ an appropriate ~~medical~~ fee to compensate health care providers for time spent communicating with the employer or employee. Each party shall bear its own costs for said communication.

(j) No cause of action shall arise and no health care provider shall incur any liability as a result of the release of medical records, reports, or information pursuant to this Article.

(k) For purposes of this section, the term "employer" means the employer, the employer's attorney, and the employer's insurance carrier or third-party administrator; and the term "employee" means the employee, legally appointed guardian, or any attorney representing the employee."

SECTION 3. G.S. 97-26 reads as rewritten:

"§ 97-26. Fees allowed for medical treatment; malpractice of physician.

(a) Fee Schedule. – The Commission shall adopt by rule a schedule of maximum fees for medical compensation, except as provided in subsection (b) of this section, and shall periodically review the schedule and make ~~revisions pursuant to the provisions of this Article~~ revisions.

The fees adopted by the Commission in its schedule shall be adequate to ensure that (i) injured workers are provided the standard of services and care intended by this Chapter, (ii) providers are reimbursed reasonable fees for providing these services, and (iii) medical costs are adequately contained.

~~Prior to adoption of a fee schedule, the Commission shall publish notice of its intent to adopt the schedule in the North Carolina Register and hold a public hearing. The published notice shall include the location, date and time of the public hearing, the proposed effective date of the fee schedule, the period of time during which the Commission will receive written~~

~~comments on the proposed schedule, and the person to whom comments and questions should be directed. In addition to publication in the North Carolina Register, the notice may be mailed to parties who have requested notice of the fee schedule hearing. The public hearing shall be held no earlier than 15 days after the publication of the notice. The Commission shall receive written comments for at least 30 days or until the date of the public hearing, whichever is later, after which the Commission may adopt the fee schedule.~~

The Commission may consider any and all reimbursement systems and plans in establishing its fee schedule, including, but not limited to, the State Health Plan for Teachers and State Employees (hereinafter, "State Plan"), Blue Cross and Blue Shield, and any other private or governmental plans. The Commission may also consider any and all reimbursement methodologies, including, but not limited to, the use of current procedural terminology ("CPT") codes, diagnostic-related groupings ("DRGs"), per diem rates, capitated payments, and resource-based relative-value system ("RBRVS") payments. The Commission may consider statewide fee averages, geographical and community variations in provider costs, and any other factors affecting provider costs.

~~An appeal from a decision of the Commission establishing a fee schedule, by any party aggrieved thereby, shall be to the North Carolina Court of Appeals. The decision of the Commission shall be affirmed if supported by substantial evidence. For the purposes of the appeal, the Commission is a party.~~

(b) Hospital Fees. – Each hospital subject to the provisions of this subsection shall be reimbursed the amount provided for in this subsection unless it has agreed under contract with the insurer, managed care organization, employer (or other payor obligated to reimburse for inpatient hospital services rendered under this Chapter) to accept a different amount or reimbursement methodology.

Except as otherwise provided herein, payment for medical treatment and services rendered to workers' compensation patients by a hospital shall be a reasonable fee determined by the ~~Commission.~~ Commission and adopted by rule. Effective September 16, 2001, through June 30, 2002, the fee shall be the following amount unless the Commission adopts a different fee schedule in accordance with the provisions of this section:

- (1) For inpatient hospital services, the amount that the hospital would have received for those services as of June 30, 2001. The payment shall not be more than a maximum of one hundred percent (100%) of the hospital's itemized charges as shown on the UB-92 claim form nor less than the minimum percentage for payment of inpatient DRG claims that was in effect as of June 30, 2001.
- (2) For outpatient hospital services and any other services that were reimbursed as a discount off of charges under the State Plan as of June 30, 2001, the amount calculated by the Commission as a percentage of the hospital charges for such services. The percentage applicable to each hospital shall be the percentage used by the Commission to determine outpatient rates for each hospital as of June 30, 2001.
- (3) For any other services, a reasonable fee as determined by the Industrial Commission.

~~Notwithstanding any other provisions of law, the Commission's determination of payment rates under this subsection shall:~~

- (1) ~~Comply with the procedures for adoption of a fee schedule established in G.S. 97-26(a);~~
- (2) ~~Include publication of the proposed payment rate, and a summary of the data and calculations on which the rate is based at least 90 days before the proposed effective date;~~
- (3) ~~Be subject to the declaratory ruling provisions of G.S. 150B-4; and~~
- (4) ~~Be deemed to constitute a final permanent rule under Article 2A of Chapter 150B for purposes of judicial review under Article 4 of that Chapter.~~

The explanation of the fee schedule change that is published pursuant to G.S. 150B-21.2(c)(2) shall include a summary of the data and calculations on which the fee schedule rate is based.

A hospital's itemized charges on the UB-92 claim form for workers' compensation services shall be the same as itemized charges for like services for all other payers.

(c) **Maximum Reimbursement for Providers Under Subsection (a).** – Each health care provider subject to the provisions of subsection (a) of this section shall be reimbursed the amount specified under the fee schedule unless the provider has agreed under contract with the insurer or managed care organization to accept a different amount or reimbursement methodology. In any instance in which neither the fee schedule nor a contractual fee applies, the maximum reimbursement to which a provider under subsection (a) is entitled under this Article is the usual, customary, and reasonable charge for the service or treatment rendered. In no event shall a provider under subsection (a) charge more than its usual fee for the service or treatment rendered.

(d) **Information to Commission.** – Each health care provider seeking reimbursement for medical compensation under this Article shall provide the Commission information requested by the Commission for the development of fee schedules and the determination of appropriate reimbursement.

(e) **When Charges Submitted.** – Health care providers shall submit charges to the insurer or managed care organization within 30 days of treatment, within 30 days after the end of the month during which multiple treatments were provided, or within such other reasonable period of time as allowed by the Commission. If an insurer or managed care organization disputes a portion of a health care provider's bill, it shall pay the uncontested portion of the bill and shall resolve disputes regarding the balance of the charges in accordance with this Article or its contractual arrangement.

(f) **Repeating Diagnostic Tests.** – A health care provider shall not authorize a diagnostic test previously conducted by another provider, unless the health care provider has reasonable grounds to believe a change in patient condition may have occurred or the quality of the prior test is doubted. The Commission may adopt rules establishing reasonable requirements for reports and records to be made available to other health care providers to prevent unnecessary duplication of tests and examinations. A health care provider that violates this subsection shall not be reimbursed for the costs associated with administering or analyzing the test.

(g) **Direct Reimbursement.** – The Commission may adopt rules to allow insurers and managed care organizations to review and reimburse charges for medical compensation without submitting the charges to the Commission for review and approval.

(g1) **Administrative Simplification.** – The applicable administrative standards for code sets, identifiers, formats, and electronic transactions to be used in processing electronic medical bills under this Article shall comply with 45 C.F.R. § 162. The Commission shall adopt rules to require electronic medical billing and payment processes, to standardize the necessary medical documentation for billing adjudication, to provide for effective dates and compliance, and for further implementation of this subsection.

(h) **Malpractice.** – The employer shall not be liable in damages for malpractice by a physician or surgeon furnished by him pursuant to the provisions of this section, but the consequences of any such malpractice shall be deemed part of the injury resulting from the accident, and shall be compensated for as such.

(i) **Resolution of Dispute.** – The employee or health care provider may apply to the Commission by motion or for a hearing to resolve any dispute regarding the payment of charges for medical compensation in accordance with this Article."

SECTION 4. G.S. 97-26.1 reads as rewritten:

"§ 97-26.1. Fees for medical records and reports; expert ~~witnesses-witnesses;~~ communications with health care providers.

The Commission may establish maximum fees for the following when related to a claim under this Article: (i) the searching, handling, copying, and mailing of medical records, (ii) the preparation of medical reports and narratives, ~~and~~ (iii) the presentation of expert testimony in a Commission ~~proceeding-proceeding,~~ and (iv) the time spent communicating with the employer or employee pursuant to G.S. 97-25.6(i)."

SECTION 5. G.S. 97-27(b) reads as rewritten:

"(b) In any case arising under this Article in which the employee is dissatisfied with the percentage of permanent disability as provided by G.S. 97-31 and determined by the authorized health care provider, the employee is entitled to have another examination solely on the percentage of permanent disability provided by a duly qualified physician of the employee's choosing who is licensed to practice in North Carolina, or licensed in another state if agreed to by the parties or ordered by the Commission, and designated by the employee. That physician shall be paid by the employer in the same manner as health care providers designated by the employer or the Industrial Commission are paid. The Industrial Commission must either disregard or give less weight to the opinions of the duly qualified physician chosen by the employee pursuant to this subsection on issues outside the scope of the G.S. 97-27(b) examination. No fact that is communicated to or otherwise learned by any physician who attended or examined the employee, or who was present at any examination, shall be privileged with respect to a claim before the Industrial Commission. Provided, however, that all travel expenses incurred in obtaining the examination shall be paid by the employee."

SECTION 6. G.S. 97-29(b) reads as rewritten:

"(b) When a claim is compensable pursuant to G.S. 97-18(b), paid without prejudice pursuant to G.S. 97-18(d), agreed by the parties pursuant to G.S. 97-82, or when a claim has been deemed compensable following a hearing pursuant to G.S. 97-84, ~~an employee proves by a preponderance of the evidence that the employee is unable to earn the same wages the employee had earned before the injury, either in the same or other employment,~~ the employee qualifies for temporary total disability subject to the limitations noted herein. The employee shall not be entitled to compensation pursuant to this subsection greater than 500 weeks from the date of first disability unless the employee qualifies for extended compensation under subsection (c) of this section."

SECTION 7. G.S. 97-32.2(a) reads as rewritten:

"(a) In a compensable claim, the employer may engage vocational rehabilitation services at any point during a claim, regardless of whether the employee has reached maximum medical improvement to include, among other services, a one-time assessment of the employee's vocational ~~potential-potential,~~ except vocational rehabilitation services may not be required if the employee is receiving benefits pursuant to G.S. 97-29(c) or G.S. 97-29(d). If the employee (i) has not returned to work or (ii) has returned to work earning less than seventy-five percent (75%) of the employee's average weekly wages and is receiving benefits pursuant to G.S. 97-30, the employee may request vocational rehabilitation services, including education and retraining in the North Carolina community college or university systems so long as the education and retraining are reasonably likely to substantially increase the employee's wage-earning capacity following completion of the education or retraining program. Provided, however, the seventy-five percent (75%) threshold is for the purposes of qualification for vocational rehabilitation benefits only and shall not impact a decision as to whether a job is suitable per G.S. 97-2(22). The expense of vocational rehabilitation services provided pursuant to this section shall be borne by the employer in the same manner as medical compensation."

SECTION 8.(a) Creation and Membership. – The Joint Legislative Committee on Workers' Compensation Insurance Coverage Compliance and Fraud Prevention and Detection (Committee) is created. The Committee shall consist of eight members to be 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.

SECTION 8.(b) Scope of Review. – The Committee shall:

- (1) Review the statutes relating to workers' compensation in the State to determine whether there are sufficient safeguards to ensure that employers comply with statutory requirements related to workers' compensation insurance coverage and to prevent and detect fraudulent claims before the Industrial Commission.
- (2) Examine the measures taken by the Industrial Commission relating to compliance with statutory requirements related to workers' compensation insurance coverage and to fraudulent claims to determine whether the Commission is using effectively existing powers and resources relating to employer compliance and the prevention of claims fraud.
- (3) Recommend any statutory changes necessary to improve or enhance the Industrial Commission's efforts and effectiveness in securing employer compliance with statutory requirements related to workers' compensation insurance coverage and to the prevention and detection of fraudulent workers' compensation claims.
- (4) Study any other matter related to the integrity of the workers' compensation system that the Committee deems necessary to accomplish its purpose.

SECTION 8.(c) A vacancy shall be filled within 30 days by the officer who made the original appointment. 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 per quarter, except while the General Assembly is in regular session, and may meet at other times upon the joint call of the cochairs. A quorum of the Committee is five members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

SECTION 8.(d) 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. 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.

SECTION 8.(e) Additional Powers. – The 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 8.(f) Reports to Committee. – Whenever a State agency is required by law to report to the General Assembly or to any of its permanent, study, or oversight committees or subcommittees on matters affecting the workforce development system, the Department shall transmit a copy of the report to the cochairs of the Committee.

SECTION 8.(g) Reporting/Termination. – The Committee shall report to the 2013 General Assembly on legislation related to the integrity of the workers' compensation system, including statutory changes to strengthen the prevention and detection of workers' compensation fraud. The Committee shall terminate upon submission of its final report to the 2013 General Assembly.

SECTION 9. Notwithstanding G.S. 97-31.1, this act is effective when it becomes law. Section 2 of this act applies to claims pending on or after that date. Section 5 of this act applies to travel expenses incurred for examinations under G.S. 97-27(b) on or after that date. Section 6 and Section 7 of this act apply to claims arising on or after June 24, 2011.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law upon approval of the Governor at 8:35 a.m. on the 1st day of July, 2012.

Session Law 2012-136

S.B. 416

AN ACT TO AMEND DEATH PENALTY PROCEDURES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15-188 reads as rewritten:

"§ 15-188. Manner and place of execution.

In accordance with G.S. 15-187, the mode of executing a death sentence must in every case be by administering to the convict or felon a lethal quantity of an ultrashort-acting barbiturate in combination with a chemical paralytic agent until the convict or felon is dead; and when any person, convict or felon shall be sentenced by any court of the State having competent jurisdiction to be so executed, the punishment shall only be inflicted within a permanent death chamber which the superintendent of the State penitentiary is hereby authorized and directed to provide within the walls of the North Carolina penitentiary at Raleigh, North Carolina. The superintendent of the State penitentiary shall also cause to be provided, in conformity with this ~~Article~~ Article, ~~and approved by the Governor and Council of State~~, the necessary appliances for the infliction of the punishment of death and qualified personnel to set up and prepare the injection, administer the preinjections, insert the IV catheter, and to perform other tasks required for this procedure in accordance with the requirements of this Article."

SECTION 2. G.S. 15A-2004(b) reads as rewritten:

"(b) A sentence of death may not be imposed upon a defendant convicted of a capital felony unless the State has given notice of its intent to seek the death penalty. Notice of intent to seek the death penalty shall be given to the defendant and filed with the court on or before the date of the pretrial conference in capital cases required by Rule 24 of the General Rules of Practice for the Superior and District Courts, or the arraignment, whichever is later. A court may discipline or sanction the State for failure to comply with the time requirements in Rule 24, but shall not declare a case as noncapital as a consequence of such failure. In addition to any discipline or sanctions the court may impose, the court shall continue the case for a sufficient time so that the defendant is not prejudiced by any delays in holding the hearing required by Rule 24."

SECTION 3. G.S. 15A-2011 reads as rewritten:

"§ 15A-2011. Proof of racial ~~discrimination~~-discrimination; hearing procedure.

(a) A finding that race was the basis of the decision to seek or impose a death sentence may be established if the court finds that race was a significant factor in decisions to seek or impose the death penalty in the defendant's case at the time the death sentence was sought or imposed. For the purposes of this section, "at the time the death sentence was sought or imposed" shall be defined as the period from 10 years prior to the commission of the offense to the date that is two years after the imposition of the death sentence. ~~sentence of death in the county, the prosecutorial district, the judicial division, or the State at the time the death sentence was sought or imposed.~~

(a1) It is the intent of this Article to provide for an amelioration of the death sentence. It shall be a condition for the filing and consideration of a motion under this Article that the defendant knowingly and voluntarily waives any objection to the imposition of a sentence to life imprisonment without parole based upon any common law, statutory law, or the federal or State constitutions that would otherwise require that the defendant be eligible for parole. The

waiver shall be in writing, signed by the defendant, and included in the motion seeking relief under this Article. If the court determines that a hearing is required pursuant to subdivision (3) of subsection (f) of this section, the court shall make an oral inquiry of the defendant to confirm the defendant's waiver, which shall be part of the record. If the court grants relief under this Article, the judgment shall include a finding that the defendant waived any objection to the imposition of a sentence of life imprisonment without parole.

~~(b) Evidence relevant to establish a finding that race was a significant factor in decisions to seek or impose the sentence of death in the county, the prosecutorial district, the judicial division, or the State at the time the death sentence was sought or imposed may include statistical evidence or other evidence, including, but not limited to, sworn testimony of attorneys, prosecutors, law enforcement officers, jurors, or other members of the criminal justice system or both, that, irrespective of statutory factors, one or more of the following applies:~~

- ~~(1) Death sentences were sought or imposed significantly more frequently upon persons of one race than upon persons of another race.~~
- ~~(2) Death sentences were sought or imposed significantly more frequently as punishment for capital offenses against persons of one race than as punishment of capital offenses against persons of another race.~~
- ~~(3) Race was a significant factor in decisions to exercise peremptory challenges during jury selection.~~

~~A juror's testimony under this subsection shall be consistent with Rule 606(b) of the North Carolina Rules of Evidence, as contained in G.S. 8C-1.~~

(c) The defendant has the burden of proving that race was a significant factor in decisions to seek or impose the sentence of death in the county or prosecutorial district at the time the death sentence was sought or imposed. The State may offer evidence in rebuttal of the claims or evidence of the defendant, including statistical evidence. The court may consider evidence of the impact upon the defendant's trial of any program the purpose of which is to eliminate race as a factor in seeking or imposing a sentence of death.

(d) Evidence relevant to establish a finding that race was a significant factor in decisions to seek or impose the sentence of death in the county or prosecutorial district at the time the death sentence was sought or imposed may include statistical evidence derived from the county or prosecutorial district where the defendant was sentenced to death, or other evidence, that either (i) the race of the defendant was a significant factor or (ii) race was a significant factor in decisions to exercise peremptory challenges during jury selection. The evidence may include, but is not limited to, sworn testimony of attorneys, prosecutors, law enforcement officers, judicial officials, jurors, or others involved in the criminal justice system. A juror's testimony under this subsection shall be consistent with Rule 606(b) of the North Carolina Rules of Evidence, as contained in G.S. 8C-1.

(e) Statistical evidence alone is insufficient to establish that race was a significant factor under this Article. The State may offer evidence in rebuttal of the claims or evidence of the defendant, including, but not limited to, statistical evidence.

(f) In any motion filed under this Article, the defendant shall state with particularity how the evidence supports a claim that race was a significant factor in decisions to seek or impose the sentence of death in the defendant's case in the county or prosecutorial district at the time the death sentence was sought or imposed.

- (1) The claim shall be raised by the defendant at the pretrial conference required by the General Rules of Practice for the Superior and District Courts or in postconviction proceedings pursuant to Article 89 of Chapter 15A of the General Statutes.
- (2) If the court finds that the defendant's motion fails to state a sufficient claim under this Article, then the court shall dismiss the claim without an evidentiary hearing.

(3) If the court finds that the defendant's motion states a sufficient claim under this Article, the court shall schedule a hearing on the claim and may prescribe a time prior to the hearing for each party to present a forecast of its proposed evidence.

(g) If the court finds that race was a significant factor in decisions to seek or impose the sentence of death in the defendant's case at the time the death sentence was sought or imposed, the court shall order that a death sentence not be sought, or that the death sentence imposed by the judgment shall be vacated and the defendant resentenced to life imprisonment without the possibility of parole."

SECTION 4. G.S. 15A-2012 is repealed.

SECTION 5. This act does not change any provision in Article 89 of Chapter 15A of the General Statutes concerning the procedure for the filing of motions for appropriate relief in capital cases, including the deadlines and grounds upon which a motion may be filed.

SECTION 6. Unless otherwise excepted, this act, including the hearing procedure, evidentiary burden, and the description of evidence that is relevant to a finding that race was a significant factor in seeking or imposing a death sentence, also applies to any postconviction motions for appropriate relief that were filed pursuant to S.L. 2009-464. This act also applies to any hearing that commenced prior to the effective date of this act. A person who filed a postconviction motion for appropriate relief pursuant to S.L. 2009-464 shall have 60 days from the effective date of this act to amend or otherwise modify the motion. Any hearings commenced prior to the effective date shall be continued and shall not be set to reconvene on a date less than 60 days from the effective date of this act.

SECTION 7. This act does not provide, allow, or authorize any motions for appropriate relief in addition to those already authorized under laws applicable to capital trial procedure or Article 89 of Chapter 15A of the General Statutes. A capital defendant who filed a trial motion alleging discrimination, or a motion for appropriate relief alleging discrimination, prior to or following the effective date of S.L. 2009-464 is not entitled or authorized to file any additional motions for appropriate relief based upon this act.

SECTION 8. This act does not apply to a postconviction motion for appropriate relief which was filed pursuant to S.L. 2009-464 if the court, prior to the effective date of this act, made findings of fact and conclusions of law after an evidentiary hearing in which the person seeking relief and the State had an opportunity to present evidence, including witness testimony and rebuttal evidence. If, however, an order by a trial court which would otherwise meet the requirements of this section is vacated or overturned upon appellate review, then any further proceedings required to prove a claim that racial discrimination was a significant factor in seeking or imposing the death penalty shall be subject to the provisions of this act.

SECTION 9. 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 10. Section 1 of this act is applicable for executions scheduled after the effective date of this act. Section 2 of this act is effective for Rule 24 hearings scheduled on or after the effective date of this act. The remainder of this act is effective when it becomes law and applies to all capital trials held prior to, on, or after the effective date of this act and to all capital defendants sentenced to the death penalty prior to, on, or after the effective date of this act.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law notwithstanding the objections of the Governor at 2:30 p.m. this 2nd day of July, 2012.

Session Law 2012-137**S.B. 876**

AN ACT TO REMOVE A CERTAIN DESCRIBED TRACT FROM THE CORPORATE LIMITS OF THE TOWN OF MOORESVILLE AT THE REQUEST OF THE TOWN BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Mooresville are reduced by removing the following two parcels, shown on the Annexation Plat for Morrison Plantation, LLC, dated December 20, 2006, and recorded in the Office of Register of Deeds of Iredell County on July 16, 2007, in Map Book 52 page (slide) 74: (i) property of William Elvin Lawing and wife, Sara King Lawing, DB 644 page 825, Iredell County Registry, PIN # 4637-65-6354, containing 43,056 sf+/-, and (ii) property of Kathryn K. Lawing, DB 541, page 595, Iredell County Registry, PIN # 4637-65-6037, containing 59,309 sf+/-.

SECTION 2. This act becomes effective June 30, 2012.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

Became law on the date it was ratified.

Session Law 2012-138**H.B. 180**

AN ACT TO VOLUNTARILY ANNEX CERTAIN DESCRIBED AREAS TO THE CORPORATE LIMITS OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

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

Belle Meade Plaza Tract: Commencing at an existing concrete monument in the centerline of St. Andrews Drive at its intersection with the north right-of-way line of U.S. 421 (Carolina Beach Road); thence along and with the north line of Carolina Beach Road South 39 degrees, 30 minutes, 53 seconds East a distance of 501.00 feet to an existing iron pipe, said pipe being the Point of Beginning; thence North 50 degrees, 25 minutes, 51 seconds East a distance of 200.00 feet to a point; thence North 39 degrees, 30 minutes, 53 seconds West a distance of 49.88 feet to an existing iron pipe; thence North 50 degrees, 29 minutes, 05 seconds East a distance of 732.86 feet to a point; thence North 40 degrees, 35 minutes, 47 seconds West a distance of 24.42 feet to a point; thence North 04 degrees, 24 minutes, 13 seconds East a distance of 45.26 feet to a point; thence North 40 degrees, 35 minutes, 46 seconds West a distance of 293.65 feet to a point; thence following along a curve to the left (Arc=50.11', Radius=170.00') a chord which bears North 49 degrees, 02 minutes, 29 seconds West a chord distance of 49.93 feet to a point; thence South 50 degrees, 29 minutes, 21 seconds West a distance of 627.43 feet to a point; thence North 03 degrees, 34 minutes, 31 seconds East a distance of 398.81 feet to a point; thence North 50 degrees, 28 minutes, 31 seconds East a distance of 299.73 feet to an existing iron pipe; thence South 03 degrees, 37 minutes, 27 seconds West a distance of 275.57 feet to an existing iron pipe; thence North 50 degrees, 23 minutes, 26 seconds East a distance of 1384.07 feet to an existing iron pipe; thence North 17 degrees, 05 minutes, 15 seconds East a distance of 225.05 feet to an existing iron pipe; thence South 46 degrees, 53 minutes, 49 seconds East a distance of 595.10 feet to a point; thence South 40 degrees, 53 minutes, 56 seconds West a distance of 39.64 feet to a point located in the Run of Barnard's Creek; thence North 67 degrees, 36 minutes, 33 seconds West a distance of 250.15 feet to a point; thence North 66 degrees, 54 minutes, 20 seconds West a distance of 131.32 feet to a point; thence South 49 degrees, 36 minutes, 10 seconds West a distance of 53.47 feet to a point; thence South 62 degrees, 59 minutes, 20 seconds West a distance of 202.70 feet to a point; thence South 04 degrees, 50 minutes, 57 seconds East a distance of 92.97 feet to a point; thence South 23 degrees, 24 minutes, 26 seconds East a distance of

167.04 feet to an existing iron pipe; thence South 39 degrees, 26 minutes, 08 seconds East a distance of 51.43 feet to an existing iron pipe; thence South 18 degrees, 32 minutes, 11 seconds East a distance of 28.38 feet to a point; thence South 36 degrees, 31 minutes, 16 seconds East a distance of 66.14 feet to a point; thence South 13 degrees, 23 minutes, 36 seconds East a distance of 21.16 feet to an existing iron pipe; thence South 50 degrees, 30 minutes, 17 seconds West a distance of 11.18 feet to a point; thence South 05 degrees, 34 minutes, 46 seconds East a distance of 220.98 feet to an existing iron pipe; thence South 03 degrees, 35 minutes, 59 seconds East a distance of 19.56 feet to an existing iron pipe; thence South 03 degrees, 35 minutes, 21 seconds East a distance of 203.30 feet to an existing iron pipe; thence South 03 degrees, 06 minutes, 22 seconds East a distance of 68.14 feet to an existing iron pipe; thence South 67 degrees, 36 minutes, 46 seconds East a distance of 166.66 feet to a point; thence South 50 degrees, 44 minutes, 58 seconds West a distance of 442.58 feet to an existing iron pipe; thence South 50 degrees, 23 minutes, 58 seconds West a distance of 1093.30 feet to an existing iron pipe; thence South 50 degrees, 23 minutes, 58 seconds West a distance of 0.70 feet to a point located in the north right-of-way line of U.S. 421 (Carolina Beach Road); thence along and with said north right-of-way line North 39 degrees, 30 minutes, 53 seconds West a distance of 365.27 feet to an existing iron pipe; thence North 50 degrees, 26 minutes, 55 seconds East a distance of 200.00 feet to an existing iron pipe; thence North 39 degrees, 30 minutes, 53 seconds West a distance of 50.00 feet to an existing iron pipe; thence South 50 degrees, 26 minutes, 55 seconds West a distance of 200.00 feet to an existing R.R. spike located in the north right-of-way line of U.S. 421 (Carolina Beach Road); thence along and with said north right-of-way line North 39 degrees, 30 minutes, 53 seconds West a distance of 100.00 feet to the Point of Beginning; containing 34.69 acres, more or less. Subject to all of Grantor's right, title, and interest, if any, in the following: (1) "Non-exclusive access easement for ingress and egress" as recorded in Book 4137 Page 0536 at the New Hanover County Registry. (2) "20' x 50' Bellsouth Easement" as recorded in Book 4639 Page 0721 at the New Hanover County Registry. (3) "Deed of Easement" for Progress Energy Carolinas, Inc., as recorded in Book 4169 Page 239 at the New Hanover County Registry. (4) "90-Foot Wide Carolina Power & Light Company right-of-way" as recorded in Book 3760 Page 405 at the New Hanover County Registry. (5) "30' Public Sanitary Sewer Easement" per New Hanover County As-Built of "Sanitary Sewer Locations Johnson Farm" dated January 4, 1987. (6) "30' Public Sanitary Sewer Easement" per Carolina Power & Light Co. survey map prepared by Moore, Gardner & Associates, Inc., dated May 1971, revised date: December 16, 1999. Added sanitary sewer easement per New Hanover County. Together with all of Grantor's right, title, and interest, if any, in the following: (1) "25' Drainage and Utility Easement" as recorded in Book 4765 Page 0803 at the New Hanover County Registry. (2) "Deed of Right-of-Way" Tract 1 St. Andrews Place II as recorded in Book 4897 Page 0148 at the New Hanover County Registry. (3) "Reciprocal Easement" Tract 2 and Tract 3 St. Andrews Place II as recorded in Book 4897 Page 0156 at the New Hanover County Registry.

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

Lockwood Village Apartments Tract: Commencing at an old concrete monument situated at point and place where the centerline of Greenbriar Road (S.R. 1698, being 60 feet in width) intersects the easterly right-of-way of South College Road (NC Highway 132, being 200 feet in width) and runs thence N 57-34-35 W, 232.65 feet to an old concrete monument located in the westerly right-of-way of said College Road, said monument lying at the southeasterly corner of the United Advent Christian Church, Inc., property (now or formerly) as recorded in Deed Book 1873, Page 9070; thence along the southerly line of said United Advent Christian Church, Inc., property N 70-06-47 W, 408.0 feet to the south easterly corner of the Simpson Property (now or formerly), as recorded in Deed Book 1851, Page 405 and the point and place of beginning of this description. thence N 70-06-47 W, 331.26 feet to the southeasterly corner of the Myrtle Properties LLC property (now or formerly) as shown on an easement plat recorded in Map Book 54, Page 277; thence along the southeasterly line of said Myrtle

Properties LLC property N 25-54-03 E, 382.24 feet to a point; thence S 71-37-38 E, 566.40 feet to a point of the westerly right-of-way of said College Road; thence along the right-of-way of said College Road S 01-16-52 W, 248.55 feet to a point; thence N 70-06-49 W, 354.29 feet to a point; thence S 19-53-13 W, 159.54 feet to the point of beginning. The above described parcel contains 4.42 acres, more or less, and is a combination of record information described in record deeds (Book/Page) 4962/296, 1905/485, and 1851/405, and is not a result of a boundary survey. The bearing directions have been rotated to a bearing base as shown on Map Book 54, Page 277.

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

Certain parcel or parcels of land situated in Masonboro Township, New Hanover County, North Carolina, and being more particularly described as follows: Beginning at a point on the mean high water line along the eastern bank of the Cape Fear River and the southern bank and mouth of Barnard's Creek, said point having NC GRID NAD 83(86) coordinates of North 149760.05 and East 2319807.02 and being located South 62° 54' 02" West 1733.67 feet from a point in the centerline of Barnard's Creek Bridge on River Road, said centerline point having NC GRID NAD 83(86) coordinates of North 150478.77 and East 2321328.74, said point being the true Point of Beginning; thence from said Point of Beginning, along the eastern bank of said Cape Fear River the following courses and distances: S 01° 07' 11" E 400.25 feet, S 09° 04' 11" W 68.47 feet, S 00° 19' 35" E 47.79 feet, S 32° 18' 52" W 34.11 feet, S 01° 13' 39" W 45.88 feet, S 12° 03' 24" W 36.72 feet, S 21° 28' 10" W 25.70 feet, S 00° 06' 15" W 32.82 feet, S 08° 17' 04" W 100.02 feet, S 16° 08' 19" W 98.71 feet, S 38° 12' 53" W 37.66 feet, S 18° 02' 03" W 73.66 feet, S 29° 55' 48" W 119.32 feet, S 27° 01' 35" W 44.69 feet, S 15° 32' 10" W 54.99 feet, S 33° 19' 47" E 108.56 feet, S 13° 01' 34" E 79.17 feet, S 24° 40' 46" E 63.75 feet, S 18° 33' 42" E 75.11 feet, S 13° 21' 04" E 149.64 feet, S 19° 17' 08" E 80.31 feet, S 24° 57' 12" E 72.60 feet, and S 06° 48' 54" E 5.17 feet; thence leaving said eastern bank South 62° 54' 02" West 880.44 feet to a point; thence North 00° 00' 00" East 1761.24 feet to a point; thence North 62° 54' 02" East 881.82 feet to the Point of Beginning, containing 28.919 acres, more or less.

SECTION 4. The corporate limits of the City of Wilmington are extended to include the following described area:

Magnolia Trace Tract: A tract of land bound on the Southwest by Carolina Beach Road (U.S. Hwy. 421), a 160' public right-of-way; on the Northwest by the lands, now or formerly, of Silver Lake Baptist Church, recorded among the land records of the New Hanover County Registry in Deed Book 1052, at Page 110; on the Northeast by the lands, now or formerly, of South College Road Associates, recorded in Deed Book 1417, at Page 1317; on the Southeast by Treetops HOA, Inc., recorded in Deed Book 3966, at Page 163; and being more particularly described as follows: BEGINNING at a point in the northeastern boundary of Carolina Beach Road, said point being located North 35°29'0" West, 168.00' along the right-of-way from its intersection with the centerline of Winding Branches Drive, a 50' private right-of-way; and running thence from the point of beginning with the right-of-way of Carolina Beach Road, North 35°28'46" West, 307.01 feet to a point; thence North 36°30'11" West, 101.04 feet to a point; thence North 35°49'34" West, 99.49 feet to a point; thence with the Silver Lake Church line, North 54°19'50" East, 879.21 feet to a point; thence with the South College Road Associates line, South 12°10'42" West, 150.06 feet to a point; thence South 11°55'45" West, 148.07 feet to a point; thence with the Treetops HOA line, South 11°54'20" West, 227.12 feet to a point; thence South 36°55'00" West, 513.79 feet to the point and place of beginning, containing 6.42 acres, more or less.

SECTION 5. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.
Became law on the date it was ratified.

Session Law 2012-139

H.B. 278

AN ACT TO BROADEN THE EXCEPTION TO THE PUBLIC RECORDS ACT FOR IDENTIFYING INFORMATION OF MINORS PARTICIPATING IN LOCAL GOVERNMENT PARKS AND RECREATION PROGRAMS TO INCLUDE ALL LOCAL GOVERNMENT PROGRAMS AND ALSO TO PROTECT E-MAIL ADDRESSES OF MINORS IN SUCH PROGRAMS IN THE TOWNS OF APEX, CARY, FUQUAY-VARINA, GARNER, HOLLY SPRINGS, KNIGHTDALE, MORRISVILLE, ROLESVILLE, WAKE FOREST, WENDELL, AND ZEBULON, AND THE CITY OF RALEIGH, AND TO AUTHORIZE THE CITY OF KINSTON TO DELEGATE TO THE CITY MANAGER OR AN APPOINTED BOARD THE POWER TO GRANT, RENEW, EXTEND, AMEND, REVOKE, OR SUSPEND A TAXICAB FRANCHISE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 132-1.12 reads as rewritten:

"§ 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, (vii) e-mail address, or ~~(vii)-(viii)~~ any other identifying information on an application to participate in such program or other records related to that program. Notwithstanding this subsection, the name of a minor who has received a scholarship or other local government-funded award of a financial nature from a local government is a public record.

(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 1.(b) This section applies to the Towns of Apex, Cary, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, and Zebulon, and the City of Raleigh only.

SECTION 2.(a) G.S. 160A-76 reads as rewritten:

"§ 160A-76. **Franchises; technical ordinances.**

(a) No ordinance making a grant, renewal, extension, or amendment of any franchise shall be finally adopted until it has been passed at two regular meetings of the council, and no such grant, renewal, extension, or amendment shall be made otherwise than by ordinance.

(a1) Notwithstanding the provisions of subsection (a) of this section, a municipality may by ordinance delegate to the city manager, or to a board of at least three members appointed by the city council, the power to grant, renew, extend, amend, revoke, or suspend a taxicab franchise, in accordance with a taxicab ordinance adopted by the municipality pursuant to G.S. 160A-304. The city council shall hear any appeal of a decision of the manager or review board pursuant to this subsection.

(b) Any published technical code or any standards or regulations promulgated by any public agency may be adopted in an ordinance by reference subject to G.S. 143-138(e). A technical code or set of standards or regulations adopted by reference in a city ordinance shall have the force of law within the city. Official copies of all technical codes, standards, and regulations adopted by reference shall be maintained for public inspection in the office of the city clerk."

SECTION 2.(b) This section applies only to the City of Kinston.

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, 2012.
Became law on the date it was ratified.

Session Law 2012-140

H.B. 994

AN ACT TO PERMIT THE COUNTY OF ROCKINGHAM TO USE DESIGN-BUILD DELIVERY METHODS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32, Rockingham County may use the design-build method of construction for up to three projects involving the construction or renovation of buildings owned by the County. The County shall seek to prequalify and solicit at least three design-build teams to bid on the project and shall receive at least three sealed proposals from those teams for each project. The proposals shall not require the design-build team to submit project design solutions. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, the County may proceed with the proposals received. The County shall interview at least two of the design-build teams that submit proposals. The County shall award the contract to the best qualified team, taking into consideration in its selection the time of completion of any project, compliance with the provisions of G.S. 143-128.2, and the cost of the project.

SECTION 2. This act is effective when it becomes law and expires on June 30, 2017.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.
Became law on the date it was ratified.

Session Law 2012-141

H.B. 1234

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 AND TO MAKE TECHNICAL CORRECTIONS TO PREVIOUS APPOINTMENTS.

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. Effective October 1, 2012, Lavonda R. Daniels of Durham County is appointed to the African-American Heritage Commission for a term expiring on September 30, 2015.

SECTION 1.2. Thomas C. Hege of Davidson County is appointed to the North Carolina Agriculture Finance Authority for a term expiring on June 30, 2015.

SECTION 1.3. Larry W. McClellan of Forsyth County and John Thompson of Robeson County are appointed to the Alarm Systems Licensing Board for terms expiring on June 30, 2015.

SECTION 1.4. Lucas S. Jack of Buncombe County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2016.

SECTION 1.5. Effective October 1, 2012, Craig Fitzgerald of Wake County is appointed to the North Carolina Brain Injury Advisory Council for a term expiring on September 30, 2016.

SECTION 1.6.(a) Rick A. Whitaker of Durham County is appointed to the State Building Commission for a term expiring on June 30, 2013.

SECTION 1.6.(b) Robert W. Hites, Jr., of Iredell County is appointed to the State Building Commission for a term expiring on June 30, 2015.

SECTION 1.7. Robert Seligson of Wake County is appointed to the Centennial Authority for a term expiring on June 30, 2016.

SECTION 1.8. Robin Kegerise of Wake County and Kevin R. Campbell of Mecklenburg County are appointed to the Child Care Commission for terms expiring on June 30, 2014.

SECTION 1.9. Charles E. Vines of Mitchell County and Kevin W. Markham of Wake County are appointed to the Clean Water Management Trust Fund Board of Trustees for terms expiring on June 30, 2016.

SECTION 1.10. Harry Schrum of Alexander County and Allen Kelly of Wake County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2016.

SECTION 1.11. Diane L. Danchi of Wake County is appointed to the North Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2015.

SECTION 1.12.(a) The Honorable Karen B. Ray of Iredell County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2015.

SECTION 1.12.(b) Effective January 1, 2013, Representative Shirley Randleman of Wilkes County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2015.

SECTION 1.13. Effective October 1, 2012, Lorrie Dollar of Wake County is appointed to the Dispute Resolution Commission for a term expiring on September 30, 2015.

SECTION 1.14. Effective September 1, 2012, Jo M. Liles of Hertford County, George S. York, Jr., of Wake County, Matthew A. Hambidge of Cleveland County, Representative John Faircloth of Guilford County, Mary Catherine Stevens of Surry County, Charles E. Campbell, II, of Moore County, and Julia B. Freeman of Haywood County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2014.

SECTION 1.15. Effective December 1, 2012, Russell L. Proctor III of Nash County is appointed to the Economic Investment Committee for a term expiring on November 30, 2014.

SECTION 1.16. Effective January 1, 2013, Representative Craig Horn of Union County is appointed to the Education Commission of the States for a term expiring on December 31, 2016.

SECTION 1.17. Benne C. Hutson of Mecklenburg County is appointed to the Environmental Management Commission for a term expiring on June 30, 2014.

SECTION 1.18. Effective January 1, 2013, the Honorable John M. Tyson of Cumberland County is appointed to the State Ethics Commission for a term expiring on December 31, 2016.

SECTION 1.19. Effective September 1, 2012, Dan W. Kornelis of Forsyth County, Daniel C. Ayscue of Cleveland County, R. Scott Dedman of Buncombe County, Brian D. Coyle of Wake County, and Melody Smith of Wake County are appointed to the North Carolina Housing Partnership for terms expiring on August 31, 2015.

SECTION 1.20. Faline Locklear Dial of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2014.

SECTION 1.21. Effective September 1, 2012, David Mark Hullender of Cleveland County is appointed to the Commission on Indigent Defense Services for a term expiring on August 31, 2016.

SECTION 1.22. Effective October 1, 2012, Michael Currin of Wake County is appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on September 30, 2015.

SECTION 1.23. Effective January 1, 2013, Mary M. Tucker of Wake County, Emmit Ray of Cabarrus County, Bob M. Russ of Forsyth County, and David Stone of Wake County are appointed to the License to Give Trust Fund Commission for terms expiring on December 31, 2014.

SECTION 1.24. Effective January 1, 2013, Ralph E. Fuller of Craven County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2015.

SECTION 1.25. Effective September 1, 2012, W. Keith Ballentine of Nash County is appointed to the North Carolina State Lottery Commission for a term expiring on August 31, 2017.

SECTION 1.26. Michael C. Adcock of Brunswick County, Nina S. Walker of Harnett County, and Douglas S. Ramsey of Alexander County are appointed to the North Carolina Manufactured Housing Board for terms expiring on June 30, 2015.

SECTION 1.27. David Bedington of Catawba County and Renee D. Hays of Wake County are appointed to the North Carolina Board of Massage and Bodywork Therapy for terms expiring on June 30, 2015.

SECTION 1.28. Peggy S. Terhune of Randolph County, Ann Shaw of Randolph County, and Roger L. Dillard, Jr., of Forsyth County are appointed to the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services for terms expiring on June 30, 2015.

SECTION 1.29.(a) If both Senate Bill 810 and 820, 2011 Regular Session, become law, then the following shall be appointed to the North Carolina Mining and Energy Commission: Charles E. Holbrook of Moore County (Category 7) for a term expiring on June 30, 2014, Raymond T. Covington of Guilford County (Category 4) and William McNeely III of Transylvania County (Category 6) for terms expiring on June 30, 2015, and Charles Taylor of Lee County (Category 5) for a term expiring on June 30, 2016.

SECTION 1.29.(b) If Senate Bill 820, 2011 Regular Session, becomes law and Senate Bill 810, 2011 Regular Session, does not become law, then the following shall be appointed to the North Carolina Mining and Energy Commission: Charles E. Holbrook of Moore County (Category 7) for a term expiring on June 30, 2014, Raymond T. Covington of Guilford County (Category 4) and Christopher J. Ayers of Wake County (Category 6) for terms expiring on June 30, 2015, and Charles Taylor of Lee County (Category 5) for a term expiring on June 30, 2016.

SECTION 1.30.(a) Effective January 1, 2013, Robert Smith of Mecklenburg County, Richard Isherwood of Mecklenburg County, and Jean Thaxton of Alamance County are appointed to the 911 Board for terms expiring on December 31, 2016.

SECTION 1.30.(b) Sheriff Len D. Hagaman, Jr., of Watauga County is appointed to the 911 Board for a term expiring on December 31, 2014, to fill the unexpired term of Sheriff Rick Davis.

SECTION 1.31. Benjamin C. Hobbs of Chowan County, Steven E. Howell of Northampton County, and Donny L. Lassiter of Northampton County are appointed to the North Carolina's Northeast Commission for a term expiring on June 30, 2014.

SECTION 1.32. Diana Rashash of Onslow County is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term expiring on July 1, 2015.

SECTION 1.33. Paul A. Herbert of Mecklenburg County and Edward W. Wood of New Hanover County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on July 1, 2015.

SECTION 1.34. Luther H. Hodges, Jr., of Watauga County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2014.

SECTION 1.35. Robert M. Clark of Stanly County, Clyde Cook of Wake County, Marcus T. Benson of New Hanover County, and William F. Booth of Brunswick County are appointed to the Private Protective Services Board for terms expiring on June 30, 2015.

SECTION 1.36. Effective November 1, 2012, Paul Coyle of Gaston County and Larry Bruce Simpson of Alamance County are appointed to the North Carolina Respiratory Care Board for terms expiring on October 31, 2015.

SECTION 1.37. Kenneth J. Daidone of Dare County, Agnes B. Powell of Bertie County, and Robert Partridge of Washington County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2014.

SECTION 1.38. Jeanette K. Doran of Wake County and Anna Baird Choi of Wake County are appointed to the Rules Review Commission for terms expiring on June 30, 2014.

SECTION 1.39. Sheriff Maynard B. Reid, Jr., of Randolph County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2015.

SECTION 1.40. Effective January 1, 2013, James A. Phillips, Jr., of Stanly County is appointed to the State Judicial Council for a term expiring on December 31, 2016.

SECTION 1.41. Mona M. Keech of Wake County is appointed to the North Carolina Supplemental Retirement Board of Trustees for a term expiring on June 30, 2014.

SECTION 1.42. Jeremy Freeman of Surry County is appointed to the Teaching Fellows Commission for a term expiring on June 30, 2015.

SECTION 1.43. Jonathan S. Loftis of Harnett County is appointed to the North Carolina Veterinary Medical Board for a term expiring on June 30, 2017.

SECTION 1.44. Cassandra Champion of Granville County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2015.

SECTION 1.45. Polly Barnhardt of Davie County is appointed to the North Carolina Board of Cosmetic Art Examiners for a term expiring on June 30, 2015.

SECTION 1.46. Effective January 15, 2013, T. Scott Aman of Halifax County is appointed to the North Carolina Turnpike Authority for a term expiring on January 14, 2017.

PART II. PRESIDENT PRO TEMPORE'S APPOINTMENTS

SECTION 2.1. Effective January 1, 2013, Bobby Bottoms of Stokes County and Laura Sykora of Wake County are appointed to the 911 Board for terms expiring on December 31, 2016.

SECTION 2.2. Andrew Kingoff of New Hanover County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2015.

SECTION 2.3. Effective October 1, 2012, Charles E. Evans of Cumberland County is appointed to the African-American Heritage Commission for a term expiring on September 30, 2015.

SECTION 2.4. Patricia Todd of Mecklenburg County is appointed to the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services for a term expiring on June 30, 2015.

SECTION 2.5. Effective September 1, 2012, Christine Mumma of Durham County is appointed to the Commission on Indigent Defense Services for a term expiring on August 31, 2016.

SECTION 2.6. Joshua Fulton of New Hanover County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2015.

SECTION 2.7.(a) Effective immediately, Marjorie Menestres of Wake County is appointed to the Domestic Violence Commission for a term expiring on August 31, 2013.

SECTION 2.7.(b) Effective September 1, 2012, Dudley Watts, Jr., of Forsyth County, Alexander Nicely of New Hanover County, Susan Bray of Guilford County, Armor Pyrtle of Rockingham County, and Senator Warren Daniel of Burke County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2014.

SECTION 2.8. Donnie Loftis of Gaston County is appointed to the Interstate Commission on Educational Opportunity for Military Children State Council to serve at the pleasure of the appointing authority.

SECTION 2.9. Senator Louis Pate of Wayne County is appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for a term expiring on June 30, 2013, to fill the unexpired term of the Honorable James Forrester.

SECTION 2.10. Effective January 1, 2012, Lloyd H. Jordan, Jr., of Pitt County, Robin Surane of Mecklenburg County, Kenneth Burkell of Forsyth County, and Arthur Totillo of Person County are appointed to the License to Give Trust Fund Commission for terms expiring on December 31, 2013.

SECTION 2.11.(a) Gerald Warren of Sampson County is appointed to the North Carolina Agricultural Finance Authority for a term expiring on June 30, 2015.

SECTION 2.11.(b) Ed Emory of Duplin County is appointed to the North Carolina Agricultural Finance Authority for a term expiring on June 30, 2014.

SECTION 2.12. The Honorable Fern Shubert of Union County is appointed to the North Carolina Appraisal Board for a term expiring on June 30, 2015.

SECTION 2.13. Jennifer Sullivan of Cumberland County is appointed to the North Carolina Arboretum Board of Directors for a term expiring on June 30, 2016.

SECTION 2.14. Paula Neal of Wake County and Janah Fletcher of Guilford County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms expiring on June 30, 2015.

SECTION 2.15. Kathleen Sodoma of Wayne County is appointed to the North Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2015.

SECTION 2.16. Effective March 1, 2012, Vincent DeBenedetto of Wake County is appointed to the North Carolina Capital Facilities Finance Agency Board of Directors for a term expiring on March 1, 2016.

SECTION 2.17. Michael Womble of Mitchell County and Aaron L. Fleming of Wake County are appointed to the North Carolina Center for the Advancement of Teaching Board of Trustees for terms expiring on June 30, 2016.

SECTION 2.18.(a) William Walton, III, of Pitt County and Elizabeth Gilleland of Wake County are appointed to the North Carolina Child Care Commission for terms expiring on June 30, 2014.

SECTION 2.18.(b) April Duvall of Macon County is appointed to the North Carolina Child Care Commission for a term expiring on June 30, 2013, to fill the unexpired term of Julie Cardwell.

SECTION 2.19.(a) Jane Dolan of Wake County is appointed to the North Carolina Interpreter and Transliterator Licensing Board for a term expiring on June 30, 2013.

SECTION 2.19.(b) Ashley Benton of Wake County and Wayne Giese of Burke County are appointed to the North Carolina Interpreter and Transliterator Licensing Board for terms expiring on June 30, 2015.

SECTION 2.20. Effective October 1, 2012, Frank Snow of Cumberland County is appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on September 30, 2015.

SECTION 2.21. Effective January 1, 2013, Kelly Reid Barbee of Onslow County and Philip J. Lanier of Forsyth County are appointed to the North Carolina Locksmith Licensing Board for terms expiring on December 31, 2015.

SECTION 2.22. Effective October 1, 2012, the Honorable Hugh Webster of Alamance County is appointed to the North Carolina Manufactured Housing Board for a term expiring on September 30, 2015.

SECTION 2.23.(a) If both Senate Bill 810 and 820, 2011 Regular Session, become law, then the following shall be appointed to the North Carolina Mining and Energy Commission: Ivan Gilmore of Beaufort County (Category 10) for a term expiring on June 30, 2014, James Womack of Lee County (Category 9) for a term expiring on June 30, 2015, Vikram Rao of Orange County (Category 11) and George Howard of Wake County (Category 8) for terms expiring on June 30, 2016.

SECTION 2.23.(b) If Senate Bill 820, 2011 Regular Session, becomes law and Senate Bill 810, 2011 Regular Session, does not become law, then the following shall be appointed to the North Carolina Mining and Energy Commission: James Womack of Lee County (Category 9) for a term expiring on June 30, 2015, and Vikram Rao of Orange County (Category 11) and George Howard of Wake County (Category 8) for terms expiring on June 30, 2016.

SECTION 2.24. Westin Bordeaux of New Hanover County and Cynthia K. Tart of Brunswick County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on July 1, 2015.

SECTION 2.25. Effective November 1, 2012, Edward Bratzke of Wake County is appointed to the North Carolina Respiratory Care Board for a term expiring on October 31, 2015.

SECTION 2.26. Effective April 1, 2012, Edward Ashby III of Surry County is appointed to the North Carolina State Banking Commission for a term expiring on March 31, 2016.

SECTION 2.27. Benjamin Tuggle of Randolph County is appointed to the North Carolina State Building Commission for a term expiring on June 30, 2015.

SECTION 2.28.(a) Effective September 30, 2012, Barry Dodson of Rockingham County is appointed to the North Carolina State Lottery Commission for a term expiring on August 31, 2013.

SECTION 2.28.(b) Effective September 30, 2012, Jody Tyson of Greene County is appointed to the North Carolina State Lottery Commission for a term expiring on August 31, 2017.

SECTION 2.29. Patrick Joyce of Carteret County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2014.

SECTION 2.30. Angela Upchurch of Gaston County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on July 1, 2015.

SECTION 2.31. J. Garry Spence of Mecklenburg County is appointed to the North Carolina Wildlife Resources Commission for a term expiring on June 30, 2013, to fill the unexpired term of Doc J. Thurston.

SECTION 2.32. John M. Tayloe of Bertie County, Richard Halbert of Chowan County, and William J. Moore, Jr., of Chowan County are appointed to the North Carolina's Northeast Commission for terms expiring on June 30, 2014.

SECTION 2.33. Eric Weaver, Sr., of Wake County, William MacRae of Wake County, and Richard A. Epley of Burke County are appointed to the Private Protective Services Board for terms expiring on June 30, 2015.

SECTION 2.34. Heidi Leo of Dare County, Zenas E. Fearing, Jr., of Dare County, and Edward Brent Lane of Wake County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2014.

SECTION 2.35. Victor L. Riley of Mecklenburg County is appointed to the State Board of Proprietary Schools for a term expiring on December 30, 2014, to fill the unexpired term of Thom Eastwood.

SECTION 2.36. Effective January 1, 2013, Les Merritt, Jr., of Wake County is appointed to the State Ethics Commission for a term expiring on December 31, 2016.

SECTION 2.37.(a) Effective January 1, 2013, Hugh B. Campbell, III, of Surry County is appointed to the State Judicial Council for a term expiring on December 31, 2016.

SECTION 2.37.(b) Effective immediately, Robert L. Harper of Edgecombe County is appointed to the State Judicial Council for a term expiring on December 31, 2014.

SECTION 2.38. Melinda Baran of Wake County is appointed to the Supplemental Retirement Board of Trustees for a term expiring on June 30, 2014.

SECTION 2.39. Ronald Cooper, Sr. of Pitt County and Perri L. Morgan of Wake County are appointed to the Panel on Nongovernmental Competition (Umstead Act Unfair Competition Panel) for terms expiring on June 30, 2016.

SECTION 2.40. Daniel Ortiz of Sampson County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2015.

SECTION 2.41. Charles Philip Byers of Rutherford County is appointed to the Western North Carolina Regional Economic Development Commission (AdvantageWest North Carolina) for a term expiring on June 30, 2013, to fill the unexpired term of Elizabeth T. Miller.

SECTION 2.42. Effective January 1, 2013, Margaret C. Conklin of Guilford County is appointed to the North Carolina Board of Nursing for a term expiring on December 31, 2016.

SECTION 2.43. Effective October 1, 2012, Glenn Edward Holmes, Jr. of Davidson County is appointed to the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors for a term expiring on September 30, 2016.

PART III. TECHNICAL CORRECTIONS

SECTION 3.1. Section 2.22 of S.L. 2010-87 reads as rewritten:

"**SECTION 2.22.** William R. (Russ) Davis of Wilson County is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term expiring on ~~July 1, 2012~~ July 1, 2013. Effective July 1, 2012, Glenn Hines of Currituck County is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term expiring on ~~July 1, 2013~~ July 1, 2015."

SECTION 3.2. Section 1.34 of S.L. 2011-176 reads as rewritten:

"**SECTION 1.34.** Effective October 1, 2011, Charles Allen of Cumberland County is appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on ~~September 30, 2014~~ September 30, 2012, to fill the unexpired term of W. Charles Neiman."

PART IV. EFFECTIVE DATE

SECTION 4. Unless otherwise provided, this act is effective when it becomes law, and applies to appointments made on or after that date.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.
Became law on the date it was ratified.

Session Law 2012-142

H.B. 950

AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2011 AND FOR OTHER PURPOSES.

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 OF ACT

SECTION 1.2. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 2012."

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, 2013, according to the schedule that follows. Amounts set out in parentheses are reductions from General Fund appropriations for the 2012-2013 fiscal year.

Current Operations – General Fund	2012-2013
EDUCATION	
Community Colleges System Office	\$ 5,165,000
Department of Public Instruction	62,430,967
University of North Carolina – Board of Governors	
Appalachian State University	573,876
East Carolina University	
Academic Affairs	4,447,287
Health Affairs	0
Elizabeth City State University	0
Fayetteville State University	473,656
NC A&T State University	0
NC Central University	0
NC State University	
Academic Affairs	3,346,252
Agricultural Research	0
Agricultural Extension	0
UNC-Asheville	0
UNC-Chapel Hill	
Academic Affairs	0
Health Affairs	0
AHEC	0
UNC-Charlotte	0
UNC-Greensboro	103,534
UNC-Pembroke	0
UNC-School of the Arts	0
UNC-Wilmington	434,038
Western Carolina University	0
Winston-Salem State University	0
General Administration	9,808,141
University Institution Programs	15,560,828
Related Educational Programs	(12,139,141)
UNC Financial Aid Private Colleges	4,500,000
NC School of Science & Math	0
UNC Hospitals	(3,000,000)
Total University of North Carolina – Board of Governors	\$ 24,108,471

HEALTH AND HUMAN SERVICES

Department of Health and Human Services		
Division of Central Management and Support	\$	1,307,641
Division of Aging and Adult Services		50,000,000
Division of Services for Blind/Deaf/Hard of Hearing		(168,336)
Division of Child Development		(3,500,000)
Division of Health Service Regulation		1,792,559
Division of Medical Assistance		194,172,266
Division of Mental Health, Dev. Disabilities and Sub. Abuse		(15,196,981)
NC Health Choice		(2,007,430)
Division of Public Health		11,384,778
Division of Social Services		(9,079,116)
Division of Vocational Rehabilitation		0
Total Health and Human Services	\$	228,705,381

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	\$	47,362,832
Department of Commerce		
Commerce		7,471,362
Commerce State-Aid		(1,217,540)
NC Biotechnology Center		(351,034)
Rural Economic Development Center		(3,757,535)
Department of Environment and Natural Resources		(39,339,288)
DENR Clean Water Management Trust Fund		(500,000)
Department of Labor		(316,738)
Wildlife Resources Commission		434,397

JUSTICE AND PUBLIC SAFETY

Department of Public Safety	\$	(32,231,135)
Judicial Department		(2,334,307)
Judicial Department – Indigent Defense		0
Department of Justice		(6,667,504)

GENERAL GOVERNMENT

Department of Administration	\$	(24,861)
Department of State Auditor		(213,521)
Office of State Controller		1,580,412

Department of Cultural Resources	
Cultural Resources	(298,866)
Roanoke Island Commission	(300,000)
State Board of Elections	(102,532)
General Assembly	1,570,422
Office of the Governor	
Office of the Governor	(94,823)
Office of State Budget and Management	(116,973)
OSBM – Reserve for Special Appropriations	1,438,388
Housing Finance Agency	(8,064,634)
Department of Insurance	
Insurance	459,055
Insurance – Volunteer Safety Workers' Compensation	0
Office of Lieutenant Governor	(144,150)
Office of Administrative Hearings	0
Department of Revenue	(1,563,991)
Department of Secretary of State	766,661
Department of State Treasurer	
State Treasurer	0
State Treasurer – Retirement for Fire and Rescue Squad Workers	0

RESERVES, ADJUSTMENTS AND DEBT SERVICE

Information Technology Fund	\$	(750,000)
Reserve for Job Development Investment Grants (JDIG)		(6,500,000)
Judicial Retirement System Contribution		100,000
Continuation/Justification Review Reserve		(35,576,758)
Compensation and Performance Pay Reserve		(121,105,840)
Reserve for Compensation Increases and Personnel Flexibility		159,984,426
Disability Income Plan Rate Reduction		(8,688,000)
One North Carolina Fund		9,000,000
Reserve for VIPER		10,000,000
Debt Service		
General Debt Service		(52,904,635)
TOTAL CURRENT OPERATIONS – GENERAL FUND	\$	237,413,109

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) Section 2.2(a) of S.L. 2011-145, as amended by Section 2(b) of S.L. 2011-391 and Section 5(a) of S.L. 2011-395, is repealed. The General Fund availability used in adjusting the 2012-2013 budget is shown below:

	FY 2012-2013
Unappropriated Balance Remaining	\$ 41,232,325
Anticipated Overcollections from FY 2011-2012	232,500,000
Anticipated Reversions for FY 2011-2012	205,500,000
Net Supplemental Medicaid Appropriation (S.L. 2012-2)	(154,000,000)
Less Earmarkings of Year-End Fund Balance	
Savings Reserve Account	(123,170,924)
Repairs and Renovations Reserve Account	(23,170,924)
Beginning Unreserved Fund Balance	\$ 178,890,477
Revenue Based on Existing Tax Structure	18,931,200,000
Nontax Revenue	
Investment Income	21,600,000
Judicial Fees	258,700,000
Disproportionate Share	115,000,000
Insurance	73,700,000
Other Nontax Revenues	304,400,000
Highway Trust Fund Transfer	27,600,000
Highway Fund Transfer	212,280,000
Total – Nontax Revenues	1,013,280,000
Subtotal General Fund Availability	20,123,370,477
Adjustments to Availability: 2012 Session	
E-Commerce Reserve Cash Balance	2,470,642
One North Carolina Fund Cash Balance	45,000,000
Sale of State Assets Receipt	(25,000,000)
Information Technology Internal Service Fund Cash Balance	14,000,000
National Mortgage Settlement	9,610,000
Highway Fund Transfer – Technical Adjustment	8,000,000
Work Opportunity Tax Credit Extension (HB 1015 Reserve)	(800,000)
Tax Deduction for Educational Supplies (HB 1015 Reserve)	(1,800,000)
Sales Tax Refund Application for Passenger Air Carriers (HB 1015 Reserve)	(3,150,000)
Insurance Regulatory Fund	166,613
Teaching Fellows Trust Fund Cash Balance	3,265,000
Diversion of Golden L.E.A.F. Funds	3,750,000
Charitable Licensing Receipts	979,752
Subtotal Adjustments to Availability:	56,492,007
Revised Total General Fund Availability	20,179,862,484
Less General Fund Appropriations	20,179,862,484
Balance Remaining	0

SECTION 2.2.(b) Notwithstanding the provisions of G.S. 143C-4-3, the State Controller shall transfer only twenty-three million one hundred seventy thousand nine hundred twenty-four dollars (\$23,170,924) from the unreserved fund balance to the Repairs and Renovations Reserve Account on June 30, 2012.

SECTION 2.2.(c) Funds transferred under this section to the Repairs and Renovations Reserve Account are appropriated for the 2012-2013 fiscal year to be used in accordance with G.S. 143C-4-3.

SECTION 2.2.(d) Notwithstanding G.S. 143C-4-2 and pursuant to subsection (a) of this section, the State Controller shall transfer one hundred twenty-three million one hundred seventy thousand nine hundred twenty-four dollars (\$123,170,924) from the unreserved fund balance to the Savings Reserve Account on June 30, 2012.

This is not an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

SECTION 2.2.(e) Notwithstanding any other provision of law, the sum of fourteen million dollars (\$14,000,000) shall be transferred from the Information Technology Internal Service Fund ending balance for State fiscal year 2011-2012, Budget Code 74660, to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

SECTION 2.2.(f) Notwithstanding any other provision of law, the sum of forty-five million dollars (\$45,000,000) from the Department of Commerce, One North Carolina Fund, shall be transferred to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

SECTION 2.2.(g) Notwithstanding any other provision of law, the sum of two million four hundred seventy thousand six hundred forty-two dollars (\$2,470,642) from the E-Commerce Reserve, Budget Code 24100, shall be transferred to the State Controller to be deposited in the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

SECTION 2.2.(h) Section 2.2(e) of S.L. 2011-145 reads as rewritten:

"**SECTION 2.2.(e)** Of the 2011-2012 and the 2012-2013 annual installment payments to the North Carolina State Specific Account that would have been transferred to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., pursuant to Section 2(b) of S.L. 1999-2, seventeen million five hundred sixty-three thousand seven hundred sixty dollars (\$17,563,760) for the 2011-2012 fiscal year and ~~seventeen million five hundred sixty three thousand seven hundred sixty dollars (\$17,563,760)~~ twenty-one million three hundred thirteen thousand seven hundred sixty dollars (\$21,313,760) for the 2012-2013 fiscal year is transferred to the General Fund."

SECTION 2.2.(i) Notwithstanding any other provision of law to the contrary, the sum of three million two hundred sixty-five thousand dollars (\$3,265,000) from the Department of Public Instruction Trust Special-Teaching Fellows shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978 or the appropriate budget code as determined by the State Controller for the 2012-2013 fiscal year.

SECTION 2.2.(j) This section becomes effective June 30, 2012.

PART III. CURRENT OPERATIONS/HIGHWAY FUND

CURRENT OPERATIONS/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, 2013, according to the following schedule. Amounts set out in parentheses are reductions from Highway Fund Appropriations for the 2012-2013 fiscal year.

Current Operations – Highway Fund	2012-2013
Department of Transportation Administration	\$ 1,595,705
Division of Highways Administration	(164,266)
Construction	(26,293,824)
Maintenance	(60,832,242)
Planning and Research	0
OSHA Program	0
Ferry Operations	(3,000,000)
State Aid Municipalities	(912,604)
Public Transportation	(5,908,506)
Airports	0
Railroads	(500,000)
Governor's Highway Safety Program	0
Division of Motor Vehicles	50,152,343
Other State Agencies, Reserves, and Transfers	(67,266,606)
Capital Improvements	0
Total	\$ (113,130,000)

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. Section 3.2 of S.L. 2011-145 is repealed. The Highway Fund availability used in adjusting the 2012-2013 fiscal year budget is shown below:

Highway Fund Availability Statement	2012-2013
Unreserved Fund Balance	\$ 27,000,000
Revenue Based on Existing Law	\$ 2,062,680,000
Adjustment to Revenue Availability (Motor Fuels Tax)	\$ (46,650,000)
Adjustment to Revenue Availability (Civil Penalties)	\$ (22,000,000)
Revised Total Highway Fund Availability	\$ 2,021,030,000
Unappropriated Balance	\$ 0

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

CURRENT OPERATIONS/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, 2013, according to the following schedule. Amounts set out in brackets are reductions from Highway Trust Fund Appropriations for the 2012-2013 fiscal year.

Current Operations – Highway Trust Fund	2012-2013
Program Administration	\$ (1,516,320)
Intrastate System	(9,338,145)
Aid to Municipalities	(979,789)
Secondary Roads	(979,789)
Urban Loops	(3,775,957)
Turnpike Authority	(30,500,000)
Transfer to General Fund	0
Transfer to Highway Fund	0
Debt Service	0
Mobility Fund	75,500,000
Reserves	(45,000,000)
GRAND TOTAL CURRENT OPERATIONS	\$ (16,590,000)

HIGHWAY TRUST FUND AVAILABILITY STATEMENT

SECTION 4.2. Section 4.2 of S.L. 2011-145 is repealed. The Highway Trust Fund availability used in developing the 2012-2013 fiscal year budget is shown below:

Highway Trust Fund Availability	2012-2013
Unreserved Fund Balance	\$ 15,000,000
Revenue Based on Existing Law	1,070,870,000
Adjustment to Revenue Availability (Motor Fuels Tax)	(15,550,000)
Revised Total Highway Trust Fund Availability	\$1,070,320,000

PART V. OTHER APPROPRIATIONS

ELIMINATE REPORTING REQUIREMENT/APPROPRIATION OF OTHER FUNDS/USE OF DEPARTMENTAL RECEIPTS

SECTION 5.1. Section 5.1 of S.L. 2011-145 reads as rewritten:

"**SECTION 5.1.(a)** State funds, as defined in G.S. 143C-1-1(d)(25), are appropriated as provided in G.S. 143C-1-2 for the 2011-2013 fiscal biennium, with the adjustments made to the continuation budget as reflected in the Governor's Recommended Budget and Budget Support Document, as follows:

- (1) For all budget codes listed in "The State of North Carolina Governor's Recommended Budget, 2011-2013" and in the Budget Support Document, cash balances and receipts are appropriated up to the amounts specified, as adjusted by the General Assembly, for the 2011-2012 fiscal year and the 2012-2013 fiscal year. Funds may be expended only for the programs, purposes, objects, and line items or as otherwise authorized by the General Assembly. Expansion budget funds listed in those documents are appropriated only as otherwise provided in this act.
- (2) Notwithstanding the provisions of subdivision (1) of this subsection:
 - a. 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 2011-2012 fiscal year and the 2012-2013 fiscal year and shall be used only to pay debt service requirements.
 - b. Other funds, 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 2011-2012 fiscal year and the 2012-2013 fiscal year.

"SECTION 5.1.(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.

~~**"SECTION 5.1.(c)** 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 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 5.1.(d)** 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. Notwithstanding subsections (a) and (b) of this section, the following additional appropriations are hereby made:~~

- ~~(1) 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.~~
- ~~(2) There is appropriated from the General Fund an amount equal to the amount required to issue refunds for tax overpayments, in accordance with the provisions of Chapter 105 of the General Statutes or any other applicable law.~~
- ~~(3) There is appropriated from the Escheat Fund any escheated property awarded to a claimant in accordance with the provisions of Chapter 116B of the General Statutes or any other applicable law.~~
- ~~(4) There is appropriated from the appropriate fund, an amount equal to the amount required to refund any other overpayment made to a State agency, in accordance with applicable law."~~

EDUCATION LOTTERY

SECTION 5.3.(a) Notwithstanding 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 four hundred forty-one million three hundred fifty-nine thousand four hundred one dollars (\$441,359,401) for the 2012-2013 fiscal year.

SECTION 5.3.(b) Notwithstanding G.S. 18C-164, the North Carolina State Lottery Commission shall not transfer funds to the Education Lottery Reserve Fund for the 2012-2013 fiscal year.

SECTION 5.3.(c) Section 5.4(f) of S.L. 2011-145 is repealed.

SECTION 5.3.(d) Notwithstanding G.S. 18C-164(f) or any other provision of law, excess lottery receipts realized in the 2011-2012 fiscal year in the amount of twenty-five million five hundred eighty-eight thousand three hundred seventy dollars (\$25,588,370) shall be allocated for UNC Need-Based Financial Aid.

SECTION 5.3.(g) Notwithstanding G.S. 18C-164, the appropriations made from the Education Lottery Fund for the 2012-2013 fiscal year are as follows:

Teachers in Early Grades	\$ 220,643,188
Prekindergarten Program	\$ 63,135,709
Public School Building Capital Fund	\$ 100,000,000
Scholarships for Needy Students	\$ 30,450,000
UNC Need-Based Financial Aid	\$ 10,744,733
LEA Adjustment	\$ 16,385,771
Total Appropriation	\$ 441,359,401

SECTION 5.3.(h) Notwithstanding G.S. 18C-164(c), G.S. 115C-546.2(d), or any other provision of law, funds appropriated in this section to the Public School Building Capital Fund for the 2012-2013 fiscal year shall be allocated to counties on the basis of average daily membership (ADM).

SECTION 5.3.(i) Notwithstanding G.S. 18C-164(c), Article 35A of Chapter 115C of the General Statutes, or any other provision of law, the funds appropriated in this section for UNC Need-Based Financial Aid shall be administered in accordance with the policy adopted by the Board of Governors of The University of North Carolina.

PART VI. GENERAL PROVISIONS

REMOVE CONSULTATION BY GOVERNOR REQUIREMENT/INTERIM APPROPRIATIONS COMMITTEES

SECTION 6.1. Section 6.5 of S.L. 2011-145 is repealed.

EXTEND REPORTING DATE/UTILIZATION REVIEW/PUBLIC SCHOOL AND PUBLIC HEALTH NURSES

SECTION 6.2. Section 6.9(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 6.9.(b)** By ~~May~~December 1, 2012, the Fiscal Research Division shall report to the House and Senate Appropriations Committees."

VOICE INTEROPERABILITY PLAN FOR EMERGENCY RESPONSE (VIPER) SYSTEM

SECTION 6.3.(a) It is the intent of the General Assembly to continue to support development and implementation of the State's Voice Interoperability Plan for Emergency Response (VIPER) system in subsequent fiscal years. The Department is hereby authorized to commit or spend up to ten million dollars (\$10,000,000) during the 2011-2013 fiscal biennium to continue development and implementation of the State's VIPER system. Notwithstanding any other provision of law, State agencies, offices, commissions, and non-State entities shall not spend more than ten million dollars (\$10,000,000) in State funds from the General Fund for this purpose during the 2011-2013 fiscal biennium. This prohibition shall not be construed to prevent the expenditure of federal funds. This section does not impair or authorize the breach of any contract and instead affects the availability of appropriated funds within the meaning of G.S. 143C-6-8 and the terms of the North Carolina Information Technology Procurement Office General Terms and Conditions for Goods and Related Services related to availability of funds as specified in the applicable contract or contract extension.

SECTION 6.3.(b) Notwithstanding any other provision of law, on June 30, 2012, fifty-four million six hundred thousand dollars (\$54,600,000) from Account Code 534528 of Budget Code 14900 in Fund 1850-968 shall revert to the General Fund.

SECTION 6.3.(c) The Department of Public Safety shall (i) coordinate with the federal First Responder Network Authority in continuing to develop and implement the VIPER system; (ii) ensure that the system complies with any standards issued by the Authority; and (iii) ensure that the VIPER system is interoperable with any communications system implemented pursuant to those standards.

SECTION 6.3.(d) The Department of Public Safety shall report to the Joint Legislative Committee on Information Technology and the Joint Legislative Oversight Committee on Justice and Public Safety on a quarterly basis on the progress of the State's VIPER system.

EXTEND MATURITY DATE/GLOBAL TRANSPARK

SECTION 6.4. G.S. 147-69.2(b)(11), as amended by Section 7 of S.L. 2005-144, Section 2 of S.L. 2005-201, Section 28.17 of S.L. 2005-276, Section 27.7 of S.L. 2007-323, Section 25.2 of S.L. 2009-451, Section 6.10(a) of S.L. 2011-145, and Section 4(b) of S.L. 2011-340, reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then none of the percentage or other limitation on investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications.

- ...
- (11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that have a final maturity not later than October 1, ~~2012~~2014. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

If any part of the property owned by the North Carolina Global TransPark Authority now or in the future is divested, proceeds of the divestment shall be used to fulfill any unmet obligations on an investment made pursuant to this subdivision.

...."

NATIONAL MORTGAGE SETTLEMENT APPROPRIATIONS

SECTION 6.5.(a) The Consent Judgment in *U.S. v. Bank of America*, Civil Action No. 12-CV-0361, dated April 4, 2012, provides for monetary payments to the State and, therefore, the General Assembly authorizes the expenditure of these State revenues as set forth in subsection (b) of this section.

SECTION 6.5.(b) Settlement funds received by the State pursuant to the Consent Judgment in *U.S. v. Bank of America*, Civil Action No. 12-CV-0361, dated April 4, 2012, shall be deposited and credited in accordance with the North Carolina Constitution and Chapter 143C of the General Statutes and are appropriated for the 2012-2013 fiscal year as follows:

- (1) The sum of four million seven hundred eighty thousand dollars (\$4,780,000) to the Department of Justice, Consumer Protection Division, for financial fraud detection and prevention efforts.
- (2) The sum of six million six hundred ninety thousand dollars (\$6,690,000) to the Administrative Office of the Courts to be administered by the North Carolina Conference of District Attorneys. Funds shall be used for grants and training for prosecutorial offices to expand prosecution of lending and financial crimes.

- (3) The sum of thirty million five hundred twenty thousand dollars (\$30,520,000) to the Housing Finance Agency for housing counselors and other assistance to help distressed homeowners.
- (4) The sum of five million seven hundred forty thousand dollars (\$5,740,000) in civil penalties shall be deposited in the Civil Penalty and Forfeiture Fund.
- (5) The sum of two million eight hundred seventy thousand dollars (\$2,870,000) to the Department of Justice, State Bureau of Investigation, to expand its accounting and financial investigative ability and its expertise to investigate financial and lending crimes.

SECTION 6.5.(c) No State agency receiving money from the National Mortgage Settlement may make expenditures for purposes not authorized by the General Assembly, nor may a State agency spend an amount totaling more than that appropriated by the General Assembly; however, a State agency may use the funds to offset 2012-2013 fiscal year nonrecurring reductions. Any positions established by State agencies with funds appropriated pursuant to this section shall be temporary or time-limited positions.

SECTION 6.5.(d) Nothing in this section is intended to be in conflict with the mandatory provisions of the Consent Judgment.

EXECUTIVE ORDER NO. 115/HURRICANE IRENE DISASTER LOANS

SECTION 6.7.(a) Notwithstanding Executive Order No. 115, Proclamation of a State of Disaster for Pamlico and Tyrrell Counties, issued on February 21, 2012, or any other law to the contrary, the Counties of Pamlico and Tyrrell, upon proof of flood insurance coverage to the Department of Public Safety, Emergency Management Division, shall not be held liable for that portion of funds borrowed under Executive Order No. 115 to cover damage sustained to their county school buildings and county school structures as a result of Hurricane Irene.

SECTION 6.7.(b) If Pamlico or Tyrrell County allows the flood insurance coverage required in subsection (a) of this section to lapse at any time, that county shall be liable for the full repayment of funds borrowed under Executive Order No. 115.

AUTHORIZE CERTAIN MODIFICATIONS OF THE CERTIFIED BUDGET

SECTION 6.9. Section 6.1(b) of S.L. 2011-145, as amended by Section 5 of S.L. 2011-391, reads as rewritten:

"**SECTION 6.1.(b)** For the 2011-2013 fiscal biennium, and notwithstanding the provisions of Chapter 143C of the General Statutes or any other provision of law, the certified budget for each State agency shall reflect only the total of all appropriations enacted for each State agency by the General Assembly in this act as modified by this act; therefore, the Director of the Budget shall modify the certified budget only to reflect the following actions and only to the extent that they are authorized by this act:

- (1) The allocation of funds set out in reserves.
- (2) Government reorganizations.
- (3) ~~Funds—~~The allocation of funds authorized by G.S. 116-30.3A and G.S. 116-40.22(c).
- (4) The allocation of funds carried forward from one fiscal year to another.
- (5) Changes required by acts that become law after the effective date of this section, irrespective of whether they are authorized by this act.

The Director of the Budget shall set out all other budget modifications in the authorized budget."

ESTABLISHING OR INCREASING FEES UNDER THIS ACT

SECTION 6.10.(a) 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 to the level authorized or anticipated in this act.

SECTION 6.10.(b) Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized by this act if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

CONSULTATION WITH A LEGISLATIVE COMMITTEE

SECTION 6.11. G.S. 12-3 reads as rewritten:

"§ 12-3. Rules for construction of statutes.

In the construction of all statutes the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the General Assembly, or repugnant to the context of the same statute, that is to say:

...

(15) Requirement to consult with a committee or commission of the General Assembly. – All words purporting to require an individual or other entity to consult with a committee or commission of the General Assembly before taking an action shall be construed to require the entity to do all of the following:

- a. Submit a report of the action under consideration to the chairs and staff of the committee or commission. The report shall include all information required by statute and the rules of that committee or commission. The staff of the committee or commission shall make the report available electronically to the members of the committee or commission and to the public.
- b. Appear at a meeting of the committee or commission at which the matter is heard. Unless another period of time is specified by statute, the requirement to appear is satisfied if the committee or commission does not have a meeting at which the matter is heard within 90 days of receiving the required submission."

MEDICAID PROGRAM DISCLOSURES TO THE FISCAL RESEARCH DIVISION

SECTION 6.12. G.S. 120-32.01 reads as rewritten:

"§ 120-32.01. Information to be supplied.

(a) Every State department, State agency, or State institution shall furnish the Legislative Services Office and the Research, Fiscal Research, Program Evaluation, and Bill Drafting Divisions any information or records requested by them and access to any facilities and personnel requested by them. Except when accessibility is prohibited by a federal statute, federal regulation, or State statute, every State department, State agency, or State institution shall give the Legislative Services Office and these divisions access to any data base or stored information maintained by computer, telecommunications, or other electronic data processing equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for storage or transmission.

(b) Notwithstanding subsection (a) of this section, access to the BEACON/HR payroll system by the Research and Bill Drafting Divisions shall only be through the Fiscal Research Division and access to the system by the Program Evaluation Division shall only be through the Division Director and two employees of the Division designated by the Division Director.

(c) Consistent with subsection (a) of this section and notwithstanding any other law relating to privacy of personnel records, the Retirement Systems Division of the Department of State Treasurer shall furnish the Fiscal Research Division direct online read-only access to active and retired member information or records maintained by the Retirement Systems Division in online information systems. Direct online read-only access shall not include access to medical records of individual members. Nothing in this subsection shall limit the provisions of subsection (a) of this section.

(d) For the purpose of ensuring financial transparency, accountability, and efficient operation of the Medicaid program finances by the Department of Health and Human Services, employees of the Fiscal Research Division designated by the Director of Fiscal Research shall have access to all records related to the Medicaid program. The Department of Health and Human Services shall cooperate fully with the designated employees of the Fiscal Research Division to facilitate (i) the evaluation of all financial and policy components of the Medicaid program, including financial projections, (ii) the evaluation of the budgetary construction and management of the Medicaid program, and (iii) the identification of unusual financial events. The Department shall also provide the Fiscal Research Division with electronic access to any departmental data for assessing or predicting Medicaid financial outcomes, and to any modeling software used for assessing or predicting Medicaid program financial outcomes. Employees of the Department shall not impede, delay, or restrict the provision of information or limit access to any departmental personnel necessary for the Fiscal Research Division to perform its monitoring and analysis of the Medicaid program.

Nothing in this subsection shall be construed to grant Fiscal Research Division employees access to medical records of individuals or other information protected under the Health Information Portability and Accountability Act (HIPAA).

Nothing in this subsection shall limit the provisions of subsection (a) of this section.

(e) The Department of Health and Human Services shall provide its annual financial projection of Medicaid program expenditures and requirements for any future fiscal years to the Chairs of the House Appropriations Committee and to the Chairs of the Senate Appropriations/Base Budget Committee no later than the date the Governor presents budget recommendations in accordance with G.S. 143C-3-5. Prior to providing this projection, the Secretary shall cooperatively engage designated employees of the Fiscal Research Division in ongoing bilateral analytical discussions about historical, current, and unanticipated factors that may impact projected Medicaid program financial outcomes that may affect the formulation of an official departmental annual financial projection.

Nothing in this subsection shall limit the provisions of subsection (a) of this section."

STATE CONTRACTS SHALL INCLUDE A CLAUSE MAKING THEM SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS

SECTION 6.13.(a) G.S. 143C-6-8 reads as rewritten:

"§ 143C-6-8. State agencies may incur financial obligations only if authorized by the Director of the Budget and subject to the availability of appropriated funds.

(a) Limitation. – Unless otherwise authorized by the Director as provided by law, purchase orders, contracts, salary commitments, and any other financial obligations by State agencies shall be subject to the availability of appropriated funds or available funds that are not State funds as defined in this Chapter. Any employment contract or salary commitment that is paid in whole or in part with State funds shall also be subject to this limitation.

(b) Notice. – Any written purchase order, contract, salary commitment, or other financial obligation subject to this section shall include a clause that sets forth the limitation imposed by subsection (a) of this section. Where this section applies but there is no written document to which the limitation may be added, the entity that administers the State funds at issue shall notify the person or entity of the limitation."

SECTION 6.13.(b) The Office of State Personnel shall adopt a policy implementing the relevant portions of G.S. 143C-6-8, as amended by this section, for State employees.

SECTION 6.13.(c) This section becomes effective September 1, 2012.

MANAGEMENT FLEXIBILITY REDUCTIONS TO ENSURE ADEQUATE FUNDS ARE AVAILABLE TO COVER MEDICAID SHORTFALLS

SECTION 6.14.(a) The General Assembly finds that:

- (1) In recent fiscal years, Medicaid program costs have grown disproportionately more than the remainder of the State budget.
- (2) Addressing large and frequent Medicaid program shortfalls has required the reallocation of funds that could have been used for other purposes.
- (3) To cover an early draw down of Medicaid funds during the 2009-2010 fiscal year, the 2011 General Assembly was required to make an additional one hundred twenty-five million dollars (\$125,000,000) available to the Medicaid program.
- (4) To cover a shortfall in the 2011-2012 Medicaid budget, the 2012 Session of the 2011 General Assembly was required to appropriate additional funds for the Medicaid program.
- (5) To ensure that adequate funds are available to cover any potential shortfall in the 2012-2013 Medicaid budget, it is necessary to implement management flexibility reductions across State government.

SECTION 6.14.(b) In order to provide adequate funds to cover any potential shortfall in the 2012-2013 Medicaid budget while minimizing the impact on State government services, the Director of the Budget shall ensure that cost savings required through the management flexibility reductions in this act are realized so that at least fifty percent (50%) of the cost savings are realized by December 31, 2012.

PART VI-A. INFORMATION TECHNOLOGY

INFORMATION TECHNOLOGY FUND/AVAILABILITY

SECTION 6A.1. Section 6A.1(a) of S.L. 2011-145 reads as rewritten:

"SECTION 6A.1.(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 2011-2012	FY 2012-2013
Appropriation from General Fund	\$4,458,142	\$6,158,142
Interest	\$ 25,000	\$25,000 16,000
IT Fund Balance June 30	\$ 792,000	<u>\$0</u> 582,975
<u>Transfer to General Fund</u>		<u>\$(750,000)</u>
Total Funds Available	\$5,275,142	\$6,183,142 <u>\$6,007,117</u>

Appropriations are made from the Information Technology Fund for the 2011-2013 fiscal biennium as follows:

	FY 2011-2012	FY 2012-2013
Information Technology Operations		
Center for Geographic Information and Analysis	\$ 599,347	\$599,347 \$461,871
Enterprise Security Risk Management	\$ 864,148	\$864,148 \$826,148
Enterprise Project Management Office	\$1,473,285	\$1,473,285 \$1,403,285
Architecture and Engineering	\$ 581,986	\$581,986 \$851,986
Criminal Justice Information Network	\$ 166,422	\$166,422 \$178,826
Statewide IT Procurement	\$ 0	\$ 0
State Web site	\$ 100,000	\$ 0 \$100,000
ITS Overhead Reduction	\$ (91,486)	\$ (91,486)
Subtotal Information Technology Operations	\$3,693,702	<u>\$3,593,702</u> <u>\$3,730,630</u>

Information Technology Projects		
State Portal	\$ 0	\$ 0
IT Consolidation	\$ 776,440	\$784,440 \$471,487
Transfer to OSC for E-Forms	\$ 500,000	\$ 500,000
Subtotal Information Technology Projects	\$1,276,440	\$1,284,440 \$971,487
Data Integration License Funding Transfer to State Agencies	\$ 200,000	\$ 1,200,000
Position Transfer to Office of State Budget and Management	\$ 105,000	\$ 105,000
Total	\$5,275,142	\$6,183,142\$6,007,117 ".

OFFICE OF INFORMATION TECHNOLOGY SERVICES/CENTER FOR GEOGRAPHIC INFORMATION AND ANALYSIS/GIS FUNCTIONS AND COST RECOVERY

SECTION 6A.2. G.S. 147-33.82(a) is amended by adding a new subdivision to read:

"(a) In addition to any other functions required by this Article, the Office of Information Technology Services shall:

- ...
- (10) Provide geographic information systems services through the Center for Geographic Information and Analysis on a cost recovery basis. The Office of Information Technology Services and the Center for Geographic Information and Analysis may contract for funding from federal or other sources to conduct or provide geographic information systems services for public purposes."

TAX INFORMATION MANAGEMENT SYSTEM/ADDITIONAL PUBLIC-PRIVATE PARTNERSHIP AUTHORIZED

SECTION 6A.3(a) Additional Public-Private Partnership. – The Secretary of Revenue may enter into an additional public-private arrangement in order to expand the implementation of the Tax Information Management System (TIMS). All such arrangements will terminate June 30, 2018. The public-private arrangement may include terms necessary to implement additional revenue-increasing or cost-savings components if all of the following conditions are met:

- (1) The funding of the project under the arrangement comes from revenue generated by or cost savings resulting from the project.
- (2) The funding of the project is dependent on increased-revenue or cost-savings streams that are different from the existing benefits stream for the implementation of TIMS.
- (3) The project involves additional identified initiatives that will be integrated into the TIMS solution.

SECTION 6A.3(b) Contracts. – Work under an additional public-private arrangement that is authorized by this section may be contracted by requests for proposals, modifications to the existing contracts, purchases using existing contracts, or other related contract vehicles.

SECTION 6A.3(c) Management/Performance Measurement. – The Secretary of Revenue shall follow the existing model for public-private arrangement oversight and shall establish a measurement process to determine the increased revenue or cost savings attributed to the additional public-private arrangement authorized by this section. To accomplish this, the Secretary shall consult subject matter experts in the Department of Revenue, in other governmental units, and in the private sector, as necessary. At a minimum, the measurement process shall include all of the following:

- (1) Calculation of a revenue baseline against which the increased revenue attributable to the project is measured and a cost-basis baseline against which the cost savings resulting from the project are measured.
- (2) Periodic evaluation to determine whether the baselines need to be modified based on significant measurable changes in the economic environment.
- (3) Monthly calculation of increased revenue and cost savings attributable to contracts executed under this section.

SECTION 6A.3.(d) Funding. – Of funds generated from increased revenues or cost savings as compared to the baselines established by subdivision (1) of subsection (c) of this section, in the General Fund, the Highway Fund, and that State portion of the Unauthorized Substance Tax collections of the Special Revenue Fund, the sum of up to a total of sixteen million dollars (\$16,000,000) may be used by the Office of State Budget and Management to make purchases related to the implementation of the additional public-private arrangement authorized by this section, including payment for services from non-State entities.

SECTION 6A.3.(e) Internal Costs. – For the 2012-2013 fiscal year, in addition to the funding authorized in subsection (d) of this section and Section 6A.5(a) of S.L. 2011-145, the Department of Revenue may retain both of the following:

- (1) An additional sum of ten million two hundred twenty-eight thousand dollars (\$10,228,000) from benefits generated for the General Fund since the beginning of the public-private partnership described under Section 6A.5(a) of S.L. 2011-145. These funds shall be used as payment of internal costs for the fiscal biennium, and such funds are hereby appropriated for this purpose.
- (2) An additional sum of six million dollars (\$6,000,000) from benefits generated for the General Fund since the beginning of the public-private partnership described under Section 6A.5(a) of S.L. 2011-145. These funds shall be used to support internal costs and any new resources necessary to provide additional electronic services, to include payments and returns. Any requirements for electronic forms and digital signatures resulting from the electronic services expansion shall be coordinated with the Office of the State Controller.

SECTION 6A.3.(f) Expert Counsel Required. – Notwithstanding G.S. 114-2.3, the Department of Revenue shall engage the services of private counsel with the pertinent information technology and computer law expertise to negotiate and review contracts associated with an additional public-private arrangement authorized under this section.

SECTION 6A.3.(g) Oversight Committee. – The Oversight Committee established under Section 6A.5(c) of S.L. 2011-145 shall have the same responsibilities and duties with respect to an additional public-private arrangement authorized by this section as it does with respect to public-private arrangements to implement TIMS and the additional PDP components.

SECTION 6A.3.(h) Reporting. – Beginning August 1, 2012, and quarterly thereafter, the Department of Revenue shall submit detailed written reports to the Chairs of the House of Representatives and Senate Committees on Appropriations, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The report shall include an explanation of all of the following:

- (1) Details of each public-private contract.
- (2) The benefits from each contract.
- (3) A comprehensive forecast of the benefits of using public-private agreements to implement TIMS, the additional PDP components, and additional components authorized by this section, including cost savings and the acceleration of the project timeline.
- (4) Any issues associated with the operation of the public-private partnership.

SECTION 6A.3.(i) Information Technology Project Oversight. – In addition to the oversight provided by the Oversight Committee established in Section 6A.5(c) of S.L. 2011-145, the additional public-private arrangement authorized by this section shall be subject

to existing State information technology project oversight laws and statutes, and the project management shall comply with all statutory requirements and other criteria established by the State Chief Information Officer and the Office of State Budget and Management for information technology projects. The State Chief Information Officer and the Office of State Budget and Management shall immediately report any failure to do so to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

SECTION 6A.3.(j) Extension. – Section 6A.5(c) of S.L. 2011-145 reads as rewritten:

"SECTION 6A.5.(c) There is established within the Department of Revenue the Oversight Committee for reviewing and approving the benefits measurement methodology and calculation process. The Oversight Committee shall review and approve in writing all contracts, including change orders, amendments to contracts, and addendums to contracts, before they are executed under this section. This shall include (i) details of each public-private contract, (ii) the benefits from each contract, and (iii) a comprehensive forecast of the benefits of using public-private agreements to implement TIMS and the additional PDP components, including the measurement process established for the Secretary of Revenue. The Oversight Committee shall approve all of the fund transfers for this project. Within five days of entering into a contract, the Department shall provide copies of each contract and all associated information to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division.

The members of the Committee shall include the following:

- (1) The State Budget Director;
- (2) The Secretary of the Department of Revenue;
- (3) The State Chief Information Officer;
- (4) Two persons appointed by the Governor;
- (5) One member of the general public having expertise in information technology appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives; and
- (6) One member of the general public having expertise in economic and revenue forecasting appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate.

The State Budget Director shall serve as chair of the Committee. The Committee shall set its meeting schedule and adopt its rules of operation by majority vote. A majority of the members constitutes a quorum. Vacancies shall be filled by the appointing authority. Administrative support staff shall be provided by the Department of Revenue. Members of the Committee shall receive reimbursements for subsistence and travel expenses as provided by Chapter 138 of the General Statutes. The Committee shall terminate on ~~June 30, 2015~~ June 30, 2018.

The Department shall provide copies of the minutes of each meeting and all associated information to the Joint Legislative Oversight Committee on Information Technology, the Chairs of the House of Representatives and Senate Committees on Appropriations, and the Fiscal Research Division."

SECTION 6A.3.(k) One-Time Payment. – To accelerate the implementation of the Tax Information Management System, including any additional components authorized by subsection (a) of this section, the Office of State Budget and Management may authorize the Secretary of Revenue to make a one-time payment of two million dollars (\$2,000,000) to the vendor of TIMS for implementation of TIMS if all of the conditions of this section are satisfied. The one-time payment shall be paid within 90 days of satisfaction of all conditions of this section or when sufficient funds are available, whichever is later. The source of funds for this payment is the same increased-revenue and cost-savings streams identified under subsection (a) of this section. The payment authorized by this subsection is in addition to the

payments authorized by subsection (a) of this section. The mandatory conditions of this subsection are as follows:

- (1) Release 5 of the Enterprise Technology Management (ETM) project is initially implemented on or before July 31, 2013.
- (2) The post-implementation defect rate for Release 5 of the ETM project is within standards agreed to by the Secretary and the vendor. For purposes of this section, the post-implementation period is the period from the date of initial implementation until 90 days after initial implementation.
- (3) All defects identified as part of Release 5 of the ETM project before the end of the post-implementation period are resolved within time frames agreed to by the Secretary and the vendor.

**INFORMATION TECHNOLOGY PERSONAL SERVICES
CONTRACTS/REPORTING CHANGE**

SECTION 6A.4. Section 6A.6(c) of S.L. 2011-145 reads as rewritten:

"**SECTION 6A.6.(c)** Beginning ~~August 1, 2011, August 1, 2012,~~ and ~~monthly~~ quarterly thereafter, each State agency, department, and institution employing information technology personal services contractors, or contract personnel performing information technology functions, shall provide a detailed report on those contracts to the Office of State Budget and Management, the Office of State Personnel, the Office of Information Technology Services, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division of the General Assembly. Each State agency's report shall include at least the following:

- (1) For each contracted information technology position:
 - a. The title of the position, a brief synopsis of the essential functions of the position, and how long the position has existed.
 - b. The name of the individual filling the position and the vendor company, if any, that regularly employs that individual.
 - c. The type of contract, start date, and termination date.
 - d. The length of time that the individual filling the contracted position has been employed by the State as a contractor in any position.
 - e. The contracted position salary or hourly rate, the number of hours per year, and the total annualized cost of the contracted position.
 - f. The salary and benefits cost for a State employee performing the same function.
 - g. The purchase order number for the position.
 - h. Whether the position can be converted to a State employee position. This determination will be certified by the State Information Technology Purchasing Office.
 - i. When the agency anticipates converting the position to a State employee.
- (2) The total annual cost for information technology contractors and the total annual salary and benefits cost for filling the contract positions with State employees.
- (3) A determination of whether the information technology functions performed by the contractor can be performed by State employees.
- (4) All information required by this subsection related to information technology contractors regardless of the contracting source."

**OFFICE OF INFORMATION TECHNOLOGY SERVICES/INTERNAL SERVICE
FUND RATE ESTABLISHED/CASH MANAGEMENT**

SECTION 6A.5.(a) Section 6A.8 of S.L. 2011-145, as amended by Section 11(e) of S.L. 2011-391, reads as rewritten:

"ITS/INTERNAL SERVICE FUND RATE ESTABLISHMENT/CASH MANAGEMENT

"SECTION 6A.8.(a) ~~For each year of the 2011-2013 fiscal biennium, the 2011-2012 fiscal year,~~ receipts for the Information Technology Internal Service Fund shall not exceed one hundred ninety million dollars (\$190,000,000), excluding a ~~60-day~~ 40-day balance for contingencies. Notwithstanding G.S. 147-33.88, for the 2012-2013 fiscal year, all receipts, regardless of the source, including agency allocations and fund-to-fund transfers, for the Information Technology Internal Service shall not exceed one hundred seventy-five million dollars (\$175,000,000). Rates established by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund shall be based on ~~this~~ the required fund limit. Established rates shall be adjusted within 30 days in the event the fund exceeds the prescribed limit. In the event that an increase in receipts for the IT Internal Service Fund is required, the ~~Office of Information Technology Services~~ State Chief Information Officer may implement the increase only after consultation with the Joint Legislative Commission on Governmental Operations. Overhead applied to IT Internal Service Fund rates shall not exceed ten percent (10%) of the rate.

"SECTION 6A.8.(a1) The 40-day balance for contingencies shall be based on the maximum receipts permitted for each fiscal year, and any balance in excess of the limit must be refunded within 30 days of the first day when the fund balance exceeded the limitation amount. The Office of Information Technology Services shall limit collections each quarter to an amount not to exceed twenty-five percent (25%) of the year's limit. For the 2012-2013 fiscal year, a 40-day balance shall be maintained.

"SECTION 6A.8.(b) Beginning with State fiscal year 2012-2013, rates shall be set to support a specific service for which an agency is being charged. Overhead charges to agencies must be consistently applied and must not exceed industry standards. Rate increases shall require approval of the OSBM. Rate reductions shall be immediately implemented following notification of the OSBM."

~~**"SECTION 6A.8.(c)** Beginning October 1, 2011, the State Chief Information Officer shall submit a quarterly report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on collections for, expenditures from, and the balance of the IT Internal Service Fund. The report shall include all expenditures made from the fund to support the Office of Information Technology Services and the activities of the State Chief Information Officer."~~

SECTION 6A.5.(b) The State Chief Information Officer shall consult with the Joint Legislative Commission on Governmental Operations prior to:

- (1) Eliminating any services currently provided by the Office of Information Technology Services or the State Chief Information Officer.
- (2) Transferring positions currently funded by the Information Technology Fund to the IT Internal Service Fund.

SECTION 6A.5.(c) Agency IT Expenses Cannot Exceed Appropriations. – During the 2012-2013 fiscal year, no State agency shall be charged more for information technology services provided by the Office of the State Chief Information Officer or the Office of Information Technology Services than the lower of the amount charged or the amount actually paid less refunds from available appropriations for the 2011-2012 fiscal year, unless the increase is agreed to in writing by the agency and the Office of the State Chief Information Officer.

The Information Technology Internal Service Fund charges to the Office of the State Controller shall be reduced by two million three hundred seventy-nine thousand dollars (\$2,379,000) for the 2012-2013 fiscal year. This funding shall be used to support the development and implementation of the Criminal Justice Law Enforcement Automated Data Services (CJLEADS).

The Information Technology Internal Service Fund charges to the Department of Public Instruction shall be reduced by eight hundred fifty thousand dollars (\$850,000) for the 2012-2013 fiscal year. This funding shall be used to support the development and implementation of the Education Value-Added Assessment System (EVAAS).

SECTION 6A.5.(c1) To offset the transfer in this act of fourteen million dollars (\$14,000,000) from the Information Technology Internal Service Fund to the State Controller, the sum of two million eight hundred thousand dollars (\$2,800,000) shall be transferred to agencies utilizing federal funding for IT Internal Service Fund payments to provide the appropriate refunds to the federal government.

SECTION 6A.5.(d) Limitation on Charges for Alternate Services. – In the event that the State Chief Information Officer discontinues or privatizes a service during the 2012-2013 fiscal year, if the agencies choose to use an alternate service provided by the Office of Information Technology Services or their vendor, the amount that State agencies are charged for alternate services, inclusive of any service charge the State Chief Information Officer adds to the vendor charge, shall not exceed the IT Internal Service Fund charges for the same service in effect on May 31, 2012.

SECTION 6A.5.(e) The State Chief Information Officer shall report on a monthly basis to the Chairs of the House of Representatives and Senate Committees on Appropriations, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The reports required by this section shall include:

- (1) How close the receipts of the Information Technology Internal Service are to the limits set forth in Section 6A.8(a) of S.L. 2011-145.
- (2) The rates established by the Office of State Budget and Management (OSBM) to support the IT Internal Service Fund.
- (3) The amount charged to date to each State agency for services provided by the Office of the State Chief Information Officer or the Office of Information Technology Services during the 2012-2013 fiscal year.
- (4) The amount that State agencies are charged for alternate services in the event that a service is discontinued or privatized during the 2012-2013 fiscal year, inclusive of any service charge the State Chief Information Officer adds to the vendor charge.

INFORMATION TECHNOLOGY PRIVATIZATION

SECTION 6A.6.(a) Section 6A.9 of S.L. 2011-145 reads as rewritten:

"SECTION 6A.9.(a) Any privatization of any grouping of information technology services, or "towers," identified in the Infrastructure Study and Assessment (INSA) or any privatization to provide a new service or privatize an existing service shall require prior approval from the General Assembly. Funding to support any outsourcing of any of these towers or any privatization involving a new or existing service shall be specifically appropriated by the General Assembly for that purpose, to include any use of Information Technology Internal Service Fund receipts. No new privatization shall occur until the Office of the State Chief Information Officer and the Office of Information Technology Services accomplish the following:

- (1) The establishment and presentation to the Joint Legislative Oversight Committee on Information Technology of a budget for the Information Technology Internal Service Fund with rates for services that accurately reflect costs.
- (2) The development and implementation of an accurate, comprehensive asset management system for executive branch agencies and report to the Joint Legislative Oversight Committee on Information Technology the results of the implementation.

- (3) Issuance of a new request for proposal to solicit bids for any privatization initiative.
- (4) Consultation with and approval from the State Treasurer.

"SECTION 6A.9.(a1) The limitations set forth in this section shall apply to the IT Services Management Services Desk (Help Desk), the Application Development and Support Services (Hosting Services), and the video portfolio and to any other IT service privatization.

"SECTION 6A.9.(b) Before privatizing any ~~major information technology function~~ new or existing information technology service during the 2011-2013 fiscal biennium, the State Chief Information Officer shall do all of the following:

- (1) Develop a detailed plan for implementing any privatization initiative to include the following:
 - a. A governance and accountability structure for the privatization effort.
 - b. Detailed time line with milestones.
 - c. Any costs necessary to accomplish outsourcing with funding sources identified.
 - d. Estimated monthly cost for each participating agency for the first five years of privatization.
 - e. Risks associated with privatization, measures being taken to mitigate those risks, and any costs associated with the mitigation measures.
 - f. Any security issues associated with outsourcing each application impacted by the outsourcing, with a detailed plan to mitigate those issues.
 - g. A list of State employees to be terminated with information on their job description and how long they have been employed by the State, a schedule of when the terminations are to occur, the cost of terminating each employee, and plans to assist each terminated employee.

The State Chief Information Officer shall consult the Joint Legislative Commission on Governmental Operations and report to the Joint Legislative Oversight Committee on Information Technology on the completed plan prior to any implementation of privatization.

- (2) Have a detailed plan in place, to include associated costs and sources of funding, to return the function to State control in the event privatization fails to provide anticipated cost-savings or required service levels.
- (3) Privatize only those individual functions where verifiable market data collected after January 1, 2012, by a disinterested third-party consultant shows that privatization will result in cost-savings to the State and there is no data identifying alternatives that generate greater savings, ensuring that agencies receive at a minimum the same level of service and functionality as the level prior to privatization.
- (4) Document and certify any anticipated savings resulting from privatization by individual function.
- (5) Ensure full disclosure of any privatization decisions that combine multiple services or towers into a single contract, including the costs associated with each specific service or tower included in the contract.
- (6) Ensure that any changes are made across the entire executive branch.
- (7) Consult the Joint Legislative Commission on Governmental Operations and report to the Joint Legislative Oversight Committee on Information Technology regarding the plan for funding any requirements formerly covered by the receipts from the privatized function.

"SECTION 6A.9.(b1) Agency Participation in Privatization Initiatives Is Voluntary. – Notwithstanding any other provision of law, if a State-administered information technology service is privatized, or a new service is provided through a private vendor, continued receipt of or participation in the service by State agencies shall be voluntary.

"SECTION 6A.9.(b2) Agency Options in the Event of Privatization. – If a State-administered information technology service is privatized, or a new privatized service is offered, State agencies may do any of the following:

- (1) Elect to discontinue receiving or participating in the service and to provide the service within the agency. If an agency elects to provide the service internally, any positions previously transferred to the Office of Information Technology Services to support the service shall be transferred back to that agency. The Office of the State Chief Information Officer and the Office of Information Technology Services shall provide necessary support to facilitate the transfers of positions.
- (2) Submit their own requests for proposal and contract with a vendor to provide the privatized service.
- (3) Enter into agreements with other agencies to independently obtain information technology services that have been privatized, either by participating in the other agency's current service or by executing contracts for services.
- (4) Elect to receive or participate in a new or newly privatized service.

"SECTION 6A.9.(b3) Council of State Approval Required. – Notwithstanding any other provision of law, both requests for proposal and contracts privatizing State-administered information technology services must be approved by the Council of State.

"SECTION 6A.9.(c) After privatizing any major information technology function, the State Chief Information Officer shall do all of the following:

- (1) Report quarterly on the results of the privatization, including a detailed comparison of projected savings to actual cost, data on whether or not the vendor is meeting service level agreements, and an explanation of the reasons for any deficiency or difference.
- (2) Immediately notify the Joint Legislative Commission on Governmental Operations of any outsourcing effort that does not meet projected savings or required service levels for two quarters in a row or during any two quarters of a fiscal year, and develop a corrective action plan.
- (3) Terminate any contract where privatization fails to achieve projected savings or meet service levels over a period of 12 months.

"SECTION 6A.9.(d) Reporting. – The State Chief Information Officer shall consult with the Joint Legislative Commission on Governmental Operations prior to issuing a request for proposal to privatize any State-administered information technology service.

"SECTION 6A.9.(e) Access by Private Vendors. – If the State Chief Information Officer provides to a potential vendor any information or access to State facilities in connection with or anticipation of the privatization of a State-administered information technology service, the State Chief Information Officer shall provide the same information or access to all potential vendors. The State Chief Information Officer shall certify the Officer's compliance with this subsection to the General Assembly."

SECTION 6A.6.(b) This section applies to all contracts entered into prior to February 1, 2013.

SECTION 6A.6.(c) This section expires February 1, 2013.

MOBILE ELECTRONIC DEVICE REPORTING CHANGE

SECTION 6A.7. Section 6A.14(a) of S.L. 2011-145, as amended by Section 11(f) of S.L. 2011-391, reads as rewritten:

"SECTION 6A.14.(a) Every executive branch agency within State government shall develop a policy to limit the issuance and use of mobile electronic devices to the minimum required to carry out the agency's mission. As used herein, mobile communication device includes goods provided by commercial mobile radio service providers and services for mobile telecommunications governed by Title 47 of the Code of Federal Regulations. By September 1, 2011, each agency shall provide a copy of its policy to the Chairs of the Appropriations Committee and the Appropriations Subcommittee on General Government of the House of Representatives, the Chairs of the Appropriations/Base Budget Committee and the Appropriations Committee on General Government and Information Technology of the Senate, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management.

State-issued mobile electronic devices shall be used only for State business. Agencies shall limit the issuance of cell phones, smart phones, and any other mobile electronic devices to employees for whom access to a mobile electronic device is a critical requirement for job performance. The device issued and the plan selected shall be the minimum required to support the employees' work requirements. This shall include considering the use of pagers in lieu of a more sophisticated device. The requirement for each mobile electronic device issued shall be documented in a written justification that shall be maintained by the agency and reviewed annually. All State agency heads, in consultation with the Office of Information Technology Services and the Office of State Budget and Management, shall document and review all authorized cell phone, smart phone, and other mobile electronic communications device procurement, and related phone, data, Internet, and other usage plans for and by their employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State employees and contractors are complying with agency policies and State requirements for their use.

Beginning ~~October 1, 2011,~~ October 1, 2012, each agency shall report ~~quarterly~~ annually to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on General Government and Information Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management on the following:

- (1) Any changes to agency policies on the use of mobile devices.
- (2) The number and types of new devices issued since the last report.
- (3) The total number of mobile devices issued by the agency.
- (4) The total cost of mobile devices issued by the agency.
- (5) The number of each type of mobile device issued, with the total cost for each type."

ENHANCE ENTERPRISE-LEVEL BUSINESS INTELLIGENCE TO INCREASE EFFICIENCY IN STATE GOVERNMENT

SECTION 6A.7A.(a) Creation of Initiative. –

- (1) Creation. – The enterprise-level business intelligence initiative (initiative) is established in the Office of State Controller. The purpose of the initiative is to support the effective and efficient development of State agency business intelligence capability in a coordinated manner and reduce unnecessary information silos and technological barriers. The initiative is not intended to replace transactional systems, but is instead intended to leverage the data from those systems for enterprise-level State business intelligence.

The initiative shall include a comprehensive evaluation of existing data analytics projects and plans in order to identify data integration and business intelligence opportunities that will generate greater efficiencies in, and improved service delivery by, State agencies. The Office of State Controller

may partner with current vendors and providers to assist in the initiative. However, to limit the cost to the State, the Office of the State Controller shall use current licensing agreements wherever feasible.

- (2) Application to State government. – The initiative shall include all State agencies, departments, and institutions, including The University of North Carolina.
- (3) Governance. – The State Controller shall lead the initiative established pursuant to this section. The Chief Justice of the North Carolina Supreme Court and the Legislative Services Commission each shall designate an officer or agency to advise and assist the State Controller with respect to implementation of the initiative in their respective branches of government. The judicial and legislative branches shall fully cooperate in the initiative mandated by this section in the same manner as is required of State agencies.

SECTION 6A.7A.(b) Government Business Intelligence Competency Center. –

- (1) GBICC established. – There is established in the Office of the State Controller the Government Business Intelligence Competency Center (GBICC). GBICC shall assume the work, purpose, and resources of the current data integration effort in the Office of the State Controller and shall otherwise advise and assist the State Controller in the management of the initiative. The State Controller shall make any organizational changes necessary to maximize the effectiveness and efficiency of GBICC.
- (2) Powers and duties of the GBICC. – The State Controller shall, through the GBICC, do all of the following:
 - a. Continue and coordinate ongoing enterprise data integration efforts, including:
 - 1. The deployment, support, technology improvements, and expansion for CJLEADS.
 - 2. The pilot and subsequent phase initiative for NC FACTS.
 - 3. Individual-level student data and workforce data from all levels of education and the State workforce.
 - 4. Other capabilities developed as part of the initiative.
 - b. Identify technologies currently used in North Carolina that have the capability to support the initiative.
 - c. Identify other technologies, especially those with unique capabilities, that could support the State's business intelligence effort.
 - d. Compare capabilities and costs across State agencies.
 - e. Ensure implementation is properly supported across State agencies.
 - f. Ensure that data integration and sharing is performed in a manner that preserves data privacy and security in transferring, storing, and accessing data, as appropriate.
 - g. Immediately seek any waivers and enter into any written agreements that may be required by State or federal law to effectuate data sharing and to carry out the purposes of this section.
 - h. Coordinate data requirements and usage for State business intelligence applications in a manner that (i) limits impacts on participating State agencies as those agencies provide data and business knowledge expertise and (ii) assists in defining business rules so the data can be properly used.
 - i. Recommend the most cost-effective and reliable long-term hosting solution for enterprise-level State business intelligence as well as data integration, notwithstanding Section 6A.2(f) of S.L. 2011-145.

SECTION 6A.7A.(c) Implementation of the Enterprise-Level Business Intelligence Initiative. –

- (1) Phases of the initiative. – The initiative shall commence no later than August 1, 2012, and shall be phased in accordance with this subsection. The initiative shall cycle through these phases on an ongoing basis:
 - a. Phase I requirements. – In the first phase, the State Controller through GBICC shall:
 1. Inventory existing State agency business intelligence projects, both completed and under development.
 2. Develop a plan of action that does all of the following:
 - I. Defines the program requirements, objectives, and end state of the initiative.
 - II. Prioritizes projects and stages of implementation in a detailed plan and benchmarked timeline.
 - III. Includes the effective coordination of all of the State's current data integration initiatives.
 - IV. Utilizes a common approach that establishes standards for business intelligence initiatives for all State agencies and prevents the development of projects that do not meet the established standards.
 - V. Determines costs associated with the development effort and identifies potential sources of funding.
 - VI. Includes a privacy framework for business intelligence consisting of adequate access controls and end user security requirements.
 - VII. Estimates expected savings.
 3. Inventory existing external data sources that are purchased by State agencies to determine whether consolidation of licenses is appropriate for the enterprise.
 4. Determine whether current, ongoing projects support the enterprise-level objectives.
 5. Determine whether current applications are scalable, or are applicable for multiple State agencies, or both.
 - b. Phase II requirements. – In the second phase, the State Controller through the GBICC shall:
 1. Identify redundancies and determine which projects should be discontinued.
 2. Determine where gaps exist in current or potential capabilities.
 - c. Phase III requirements. – In the third phase:
 1. The State Controller through GBICC shall incorporate or consolidate existing projects, as appropriate.
 2. The State Controller shall, notwithstanding G.S. 147-33.76 or any rules adopted pursuant thereto, eliminate redundant business intelligence projects, applications, software, and licensing.
 3. The State Controller through GBICC shall complete all necessary steps to ensure data integration in a manner that adequately protects privacy.
- (2) Commencement of projects. – Subject to the availability of funds, and subsequent to the submission of the written report required by sub-subdivision a. of subdivision (1) of subsection (e) of this section, the State Controller shall begin projects to carry out the purposes of this section

no later than November 1, 2012. The State Controller may also expand existing data integration or business intelligence contracts with current data integration efforts, as appropriate, in order to implement the plan required by this section in accordance with the schedule established and the priorities developed during Phase I of the initiative, and may use public-private partnerships as appropriate to implement the plan.

SECTION 6A.7A.(d) Funding. –

- (1) Allocation. – Of the funds appropriated from the General Fund to the General Assembly for the 2011-2013 fiscal biennium, the sum of five million dollars (\$5,000,000) shall be used to fund the initiative established by this section. The Office of the State Controller shall use up to seven hundred fifty thousand dollars (\$750,000) to cover the cost of administering the initiative.
- (2) Federal funds. – 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.
- (3) Use of savings. – Savings resulting from the cancellation of projects, software, and licensing, as well as any other savings from the initiative, shall be returned to the General Fund and shall remain unexpended and unencumbered until appropriated by the General Assembly in a subsequent fiscal year. It is the intent of the General Assembly that expansion of the initiative in subsequent fiscal years be funded with these savings and that the General Assembly appropriate funds for projects in accordance with the priorities identified by the Office of the State Controller in Phase I of the initiative.

SECTION 6A.7A.(e) Reporting. –

- (1) Routine reports. – The Office of the State Controller shall submit and present the following reports:
 - a. By no later than October 1, 2012, a written report on the implementation of Phase I of the initiative and the plan developed as part of that phase to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees, to the Joint Legislative Oversight Committee on Information Technology, and to the Fiscal Research Division of the General Assembly. The State Controller shall submit this report prior to implementing any improvements, expending funding for expansion of existing business intelligence efforts, or establishing other projects as a result of its evaluations.
 - b. By February 1, 2013, and quarterly thereafter, a written report detailing progress on, and identifying any issues associated with, State business intelligence efforts.
- (2) Extraordinary reports. – The Office of the State Controller shall report the following information as needed:
 - a. Any failure of a State agency to provide information requested pursuant to this section. The failure shall be reported to the Joint Legislative Committee on Information Technology and to the Chairs of the House of Representatives Appropriations and Senate Base Budget/Appropriations Committees.
 - b. Any additional information to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology that is requested by those entities.

SECTION 6A.7A.(f) Duties of State Agencies. –

- (1) Duties of State agencies. – The head of each State agency shall do all of the following:
- a. Grant the Office of the State Controller access to all information required to develop and support State business intelligence applications pursuant to this section. The State Controller and the GBICC shall take all necessary actions and precautions, including training, certifications, background checks, and governance policy and procedure, to ensure the security, integrity, and privacy of the data in accordance with State and federal law and as may be required by contract.
 - b. Provide complete information on the State agency's information technology, operational, and security requirements.
 - c. Provide information on all of the State agency's information technology activities relevant to the State business intelligence effort.
 - d. Forecast the State agency's projected future business intelligence information technology needs and capabilities.
 - e. Ensure that the State agency's future information technology initiatives coordinate efforts with the GBICC to include planning and development of data interfaces to incorporate data into the initiative and to ensure the ability to leverage analytics capabilities.
 - f. Provide technical and business resources to participate in the initiative by providing, upon request and in a timely and responsive manner, complete and accurate data, business rules and policies, and support.
 - g. Identify potential resources for deploying business intelligence in their respective State agencies and as part of the enterprise-level effort.
 - h. Immediately seek any waivers and enter into any written agreements that may be required by State or federal law to effectuate data sharing and to carry out the purposes of this section, as appropriate.

SECTION 6A.7A.(g) Miscellaneous Provisions. –

- (1) Status with respect to certain information. – The State Controller and the GBICC shall be deemed to be all of the following for the purposes of this section:
- a. With respect to criminal information, and to the extent allowed by federal law, a criminal justice agency (CJA), as defined under Criminal Justice Information Services (CJIS) Security Policy. The State CJIS Systems Agency (CSA) shall ensure that CJLEADS receives access to federal criminal information deemed to be essential in managing CJLEADS to support criminal justice professionals.
 - b. With respect to health information covered under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and to the extent allowed by federal law:
 1. A business associate with access to protected health information acting on behalf of the State's covered entities in support of data integration, analysis, and business intelligence.
 2. Authorized to access and view individually identifiable health information, provided that the access is essential to the enterprise fraud, waste, and improper payment detection

- program or required for future initiatives having specific definable need for the data.
- c. Authorized to access all State and federal data, including revenue and labor information, deemed to be essential to the enterprise fraud, waste, and improper payment detection program or future initiatives having specific definable need for the data.
 - d. Authorized to develop agreements with the federal government to access data deemed to be essential to the enterprise fraud, waste, and improper payment detection program or future initiatives having specific definable need for such data.
- (2) Release of information. – The following limitations apply to (i) the release of information compiled as part of the initiative, (ii) data from State agencies that is incorporated into the initiative, and (iii) data released as part of the implementation of the initiative:
- a. Information compiled as part of the initiative. – Notwithstanding the provisions of Chapter 132 of the General Statutes, information compiled by the State Controller and the GBICC related to the initiative may be released as a public record only if the State Controller, in that officer's sole discretion, finds that the release of information is in the best interest of the general public and is not in violation of law or contract.
 - b. Data from State agencies. – Any data that is not classified as a public record under G.S. 132-1 shall not be deemed a public record when incorporated into the data resources comprising the initiative. To maintain confidentiality requirements attached to the information provided to the State Controller and GBICC, each source agency providing data shall be the sole custodian of the data for the purpose of any request for inspection or copies of the data under Chapter 132 of the General Statutes.
 - c. Data released as part of implementation. – Information released to persons engaged in implementing the State's business intelligence strategy under this section that is used for purposes other than official State business is not a public record pursuant to Chapter 132 of the General Statutes.

SECTION 6A.7A.(h) G.S. 75-66(d) reads as rewritten:

- "(d) Nothing in this section shall:
- (1) Limit the requirements or obligations under any other section of this Article, including, but not limited to, G.S. 75-62 and G.S. 75-65.
 - (2) Apply to the collection, use, or release of personal information for a purpose permitted, authorized, or required by any federal, State, or local law, regulation, or ordinance.
 - (3) Apply to data integration efforts to implement the State's business intelligence strategy as provided by law or under contract."

STATE PRIVATE CLOUD

SECTION 6A.9.(a) Findings. – The General Assembly finds that:

- (1) The wide distribution of information technology facilities across multiple locations causes infrastructure and operational inefficiencies.
- (2) Infrastructure as a service, also known as cloud computing, has the potential to increase efficiency and enhance operations by reducing information technology costs and accelerating the provision of services.
- (3) The creation of a secure and flexible State private cloud is in the best interest of the people of this State.

SECTION 6A.9.(b) Plan Required. – The State Chief Information Officer shall create a plan for the development and implementation of a State-owned, State-hosted infrastructure as a service, or private cloud, project to be operated and managed by the State.

SECTION 6A.9.(c) Components of the Plan. – The State private cloud plan created pursuant to this section shall include:

- (1) Requirements for:
 - a. The State to have complete control and ownership of all components of the private cloud, including hardware, software, network infrastructure, security, and data.
 - b. All components of the private cloud to be maintained at State-owned, State-operated facilities.
 - c. The private cloud to fully comply with all legislative, regulatory, policy, and security requirements that apply to State agencies and entities conducting business with the State.
 - d. The State's existing information technology infrastructure to be used to support the private cloud.
 - e. Documentation of any redundancy built into the infrastructure to support requirements for increased availability and disaster recovery.
 - f. A service-centric approach to computing resources. Users of computing resources shall be able to efficiently access powerful, predefined computing environments based on their requirements.
 - g. A self-service ability to provision and deprovision, as requested by users, while maintaining high levels of security.
 - h. A fully functional, efficient, fair system to bill State agencies for private cloud usage. This requirement includes mechanisms to capture usage data and enable chargeback integration within the billing system.
 - i. A plan to manage infrastructure resources that can be scaled in response to State agency requirements.
 - j. An inventory of all potential resources, both public and private, available to support the development, implementation, operation, and management of the private cloud, and the costs and benefits associated with each.
- (2) A detailed timeline, documentation of agency requirements, identification and resolution of security issues, and an assessment of the impact on any ongoing projects or current applications.
- (3) Identification of costs associated with developing the private cloud.
- (4) Identification and documentation of private cloud management and monitoring tools to facilitate the maintenance of complete control of private cloud resources; automate provisioning, deprovisioning, and scheduling; and maintain system capacity.
- (5) Identification of ways to improve the private cloud's supporting infrastructure.
- (6) Identification of potential sources of savings to support development, implementation, and maintenance of the State private cloud.

SECTION 6A.9.(d) Funding and Implementation. – No funds from any source shall be used for the development and implementation of a private cloud without specific authorization by the General Assembly appropriating funds for this purpose.

SECTION 6A.9.(e) Report. – The State Chief Information Officer shall report the plan created pursuant to this section to the Joint Legislative Oversight Committee on Information Technology no later than January 1, 2013.

SECTION 6A.9(f) Access by Private Vendors. – If the State Chief Information Officer provides to a potential vendor any information or access to State facilities in connection with or anticipation of the private cloud project described in this section, the State Chief Information Officer shall provide the same information or access to all potential vendors. The State Chief Information Officer shall certify the Officer's compliance with this subsection to the General Assembly.

ENTERPRISE GRANTS MANAGEMENT

SECTION 6A.10. Section 6A.7 of S.L. 2011-145, as amended by Section 11(d) of S.L. 2011-391, reads as rewritten:

"STATE INFORMATION TECHNOLOGY CONSOLIDATION

...
~~"SECTION 6A.7.(b) Beginning July 1, 2011, the State CIO shall plan and implement an enterprise level grants management system. Similar systems currently under development may be suspended by the State CIO with funding reprogrammed to support development of the enterprise level grants management system.~~

~~In coordination with the State CIO, the Department of Health and Human Services shall develop a plan to implement a single case management system throughout that Department, beginning in the 2012 2013 fiscal year, and shall report to the Joint Legislative Oversight Committee on Information Technology by February 1, 2012, on its initiatives to implement the system. The report shall include a detailed time line for completion and an explanation of the costs associated with case management consolidation.~~

"SECTION 6A.7.(b1) There is established a Grants Management Oversight Committee to coordinate the development of an enterprise grants management system. The Committee shall be chaired by the State Controller. Committee membership shall include the Senior Deputy State Controller, the Director of the Office of State Budget and Management, and the State Auditor.

The Committee shall:

- (1) Establish priorities for agency projects.
- (2) Establish priorities for development and implementation of system capabilities.
- (3) Review and approve system requirements.
- (4) Review and approve plans associated with system development and implementation.
- (5) Review and approve costs and funding sources for system development and implementation.
- (6) Ensure system benefits are realistic and realized.

"SECTION 6A.7.(b2) By August 1, 2013, the Office of State Budget and Management shall provide a detailed plan to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division for the development and implementation of the enterprise grants management system, including a time line, cost for each participating agency, a comprehensive business plan, and information on the anticipated benefits of system implementation.

"SECTION 6A.7.(b3) Beginning August 1, 2012, the Office of State Budget and Management shall report monthly to the Joint Legislative Oversight Committee on Information Technology and the Fiscal Research Division on the status of the system, including the following information:

- (1) Agencies currently participating in the system.
- (2) Specific requirements for each agency project included in the system development.
- (3) Cost and funding sources for each agency participating in the system.
- (4) Status of each agency project included in the system.

- (5) Comparison of the status of each project to the time line, with an explanation of any differences.
- (6) Detailed descriptions of milestones to be completed that month and the following month.
- (7) Any changes in project cost for any participating agency, the reasons, and the source of funding.
- (8) Actual expenditures by agency, to date and during that month.
- (9) Any potential funding shortfalls and their impact.
- (10) Any issues identified during the month, with a corrective action plan and a time line for resolving them.
- (11) Impact of any issues on schedule or cost.
- (12) Any changes to agency projects or the system as a whole.
- (13) Any change requests and their cost.

"SECTION 6A.7.(b4) The State CIO shall provide all required assistance and support for the development and implementation of the enterprise grants management system. Similar systems currently under development may be suspended by the State CIO with funding reprogrammed to support development of the enterprise grants management system.

"SECTION 6A.7.(b5) In coordination with the State CIO, the Department of Health and Human Services shall develop a plan to implement a single case management system throughout that Department, beginning in the 2012-2013 fiscal year, and shall report to the Joint Legislative Oversight Committee on Information Technology by February 1, 2012, on its initiatives to implement the system. The report shall include a detailed time line for completion and an explanation of the costs associated with case management consolidation.

~~**"SECTION 6A.7.(c)** Beginning September 1, 2011, and quarterly thereafter, the Office of State Budget and Management, in conjunction with the State CIO, shall provide written reports to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division relating to State information technology consolidation."~~

STATE PORTAL IMPLEMENTATION/OPERATION

SECTION 6A.12.(a) The Office of the State Chief Information Officer (State CIO) shall plan, develop, implement, and operate a Statewide electronic portal (i) to increase the convenience of members of the public in conducting online transactions with, and obtaining information from, State government and (ii) to facilitate their interactions and communications with government agencies. No contract for the implementation, operation, or funding of the portal shall be signed prior to February 1, 2013.

SECTION 6A.12.(b) By February 1, 2013, the State CIO shall report to the Joint Legislative Oversight Committee on Information Technology on the following:

- (1) A detailed plan for development and implementation of the Statewide electronic portal, to include, at a minimum:
 - a. A list of anticipated services to be implemented during the 2013-2015 fiscal biennium, including a time line for deployment of each service.
 - b. A written assessment of the potential impact on services and agency operations from each potential participating agency, including the impact on the collection and distribution of fees and other service charges.
 - c. Any requirements for access to, or for use of, State data and any anticipated uses, to include any vendor use of data that does not directly support State activities.
 - d. A means to measure and report customer satisfaction for each service provided.
- (2) A financial model including:

- a. The amount charged per transaction for each service by both the vendor and the State and the number of anticipated transactions for the next calendar year.
- b. Anticipated gross revenue from each service, along with the amount to be remitted to the vendor and the amount to be remitted to the State.
- c. Methodology for allocation of receipts to the vendor and to the State.
- d. Any other anticipated use of State data by the vendor and the amount of revenue the vendor anticipates collecting.
- e. Any receipts remitted to the State by the vendor.
- f. Services provided with no associated fee.
- g. Any potential impact on current fees collected by State agencies.

SECTION 6A.12.(c) Beginning January 31, 2014, and then annually thereafter, the State CIO shall report to the General Assembly and to the Fiscal Research Division on the following information:

- (1) Services currently provided and associated transaction volumes or other relevant indicators of utilization by user type.
- (2) New services added during the previous year.
- (3) Services added that are currently available in other states.
- (4) The total amount collected for each service.
- (5) The total amount remitted to the State for each service.
- (6) The total amount remitted to the vendor for each service.
- (7) Any other use of State data by the vendor and the total amount of revenue collected per each use and in total.
- (8) Customer satisfaction with each service.
- (9) Any other issues associated with the provision of each service.

SECTION 6A.12.(d) The State CIO shall consult with the Joint Legislative Oversight Commission on Governmental Operations and the Joint Legislative Oversight Committee on Information Technology prior to implementing any new portal service fee.

SECTION 6A.12.(e) There shall be a convenient, free alternative for any online service provided.

SECTION 6A.12.(f) Participation by State agencies in the portal shall be voluntary.

SECTION 6A.12.(g) The State portal project shall meet all requirements for project management established by the State CIO. Nothing in this section shall exempt the State portal project from the laws governing State information technology and purchasing.

SECTION 6A.12.(h) There is established in the Office of the State CIO the Statewide Portal Committee (Committee). The Committee shall review services proposed for inclusion in the State portal. The Committee shall have approval authority for services and applications not requiring a fee or imposing any cost on any State or local agency or anyone doing business with the State.

The Committee shall be composed of seven members as follows:

- (1) Two members appointed by the Governor.
- (2) Two members appointed by the General Assembly, as recommended by the Speaker of the House of Representatives.
- (3) Two members appointed by the General Assembly, as recommended by the President Pro Tempore of the Senate.
- (4) The State Controller shall be designated as the chair.

Any vacancy on the Committee shall be filled by the appointing authority. 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. Adequate staff shall be provided to the Office of the State CIO. The Committee may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

SECTION 6A.12.(i) Notwithstanding G.S. 114-2.3, the Office of the State CIO shall engage the services of private counsel with the pertinent information technology and computer law expertise to negotiate and review contracts associated with the State portal.

SECTION 6A.12.(j) Section 6A.10 of S.L. 2011-145, as amended by Section 12(b) of S.L. 2011-391, is repealed.

PART VII. PUBLIC SCHOOLS

FUNDS FOR CHILDREN WITH DISABILITIES

SECTION 7.1. The State Board of Education shall allocate additional funds for children with disabilities on the basis of three thousand seven hundred nine dollars (\$3,709) per child. 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 its 2012-2013 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 additional funds for academically or intellectually gifted children on the basis of one thousand two hundred twenty-three dollars and ninety-three cents (\$1,223.93) per child for fiscal year 2012-2013. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2012-2013 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. 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.

SCHOOL IMPROVEMENT PLANS AT RESIDENTIAL SCHOOLS

SECTION 7.3.(a) In order to improve student performance, the Eastern North Carolina School for the Deaf, the Governor Morehead School for the Blind, and the North Carolina School for the Deaf each shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board of Education. The principal of each school, instructional personnel and residential life personnel assigned to that school, and a minimum of five parents of children enrolled in the school shall constitute a school improvement team to develop a school improvement plan to improve student performance.

Representatives of the instructional and residential life personnel shall be elected by their respective groups by secret ballot.

Parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. To the extent possible, parents serving on school improvement teams shall reflect the composition of the students enrolled in that school. No more than two parents on the team may be employees of the school. Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with instructional and residential life personnel, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation. Parents who are elected to serve on school improvement teams and who are not employees of the school shall receive travel and subsistence expenses in accordance with G.S. 138-5 and, if appropriate, may receive a stipend.

All school improvement plans shall be, to the greatest extent possible, data driven. School improvement teams shall use the Education Value Added Assessment System (EVAAS), or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for problems and to determine actions to address them. School improvement plans shall contain clear, unambiguous targets, explicit indicators and actual measures, and expeditious time frames for meeting the measurement standards.

SECTION 7.3.(b) The strategies for improving student performance shall include the following:

- (1) A plan for the use of staff development funds that may be made available to the school to implement the school improvement plan. The plan may provide that a portion of these funds is used for mentor training and for release time and substitute teachers while teachers are meeting with mentors.
- (2) A plan for preparing students to read at grade level by the time they enter second grade. The plan shall require kindergarten and first grade teachers to notify parents or guardians when a child is not reading at grade level and is at risk of not reading at grade level by the time the child enters second grade. The plan may include the use of assessments to monitor students' progress in learning to read and strategies for teachers and parents to implement that will help students improve and expand their reading ability, as well as provide for the recognition of teachers and strategies that appear to be effective at preparing students to read at grade level.
- (3) A comprehensive plan to encourage parent involvement.
- (4) A plan designed to provide that the school is safe, secure, and orderly; that there is a climate of respect in the school; and that appropriate personal conduct is a priority for all students and all residential school personnel.
- (5) A plan that specifies the effective instructional practices and methods to be used to improve the academic performance of students identified as at risk of academic failure or at risk of dropping out of school.

SECTION 7.3.(c) Support among affected staff members is essential to successful implementation of a school improvement plan to address improved student performance at that school. The principal of the school shall present the proposed school improvement plan to all of the instructional personnel assigned to the school for their review and vote. The vote shall be by secret ballot. The principal shall submit the school improvement plan to the State Board of Education only if the proposed school improvement plan has the approval of a majority of the instructional personnel who voted on the plan.

SECTION 7.3.(d) The State Board of Education shall accept or reject the school improvement plan within 60 days after the submission plan. If the State Board rejects a school improvement plan, the State Board shall state with specificity the reasons for rejecting the plan to the principal and shall direct that the principal work with the school improvement team to resolve the disagreements. The school improvement team may then prepare another plan, present it to the instructional personnel assigned to the school for a vote, and submit it to the State Board to accept or reject. If there is no resolution within 30 days, then the State Board may develop a school improvement plan for the school; however, the General Assembly urges the State Board to utilize the school's proposed school improvement plan to the maximum extent possible when developing this plan.

SECTION 7.3.(e) A school improvement plan shall remain in effect for no more than three years; however, the school improvement team may amend the plan as often as is necessary or appropriate. If, at any time, any part of a school improvement plan becomes unlawful or the State Board finds that a school improvement plan is impeding student performance at a school, the State Board may vacate the relevant portion of the plan and may direct the school to revise that portion. The procedures set out in this section shall apply to amendments and revisions to school improvement plans.

SECTION 7.3.(f) Any funds the State Board makes available to a school to meet the goals for that school under the ABCs Program and to implement the school improvement plan at that school shall be used in accordance with those goals and the school improvement plan.

SECTION 7.3.(g) The State Board shall develop a list of recommended strategies that it determines to be effective, which building-level committees may use to establish parent involvement programs designed to meet the specific needs of their schools.

SECTION 7.3.(h) Once the plan is developed, the principal shall ensure the plan is available and accessible to parents and the school community.

SCHOOL CALENDAR PILOT PROGRAM

SECTION 7.4. The State Board of Education shall establish a school calendar pilot program in the Wilkes County Schools, the Montgomery County Schools, and the Stanly County Schools. The purpose of the pilot program is to determine whether and to what extent a local school administrative unit can save money during this extreme fiscal crisis by consolidating the school calendar.

Notwithstanding G.S. 115C-84.2(a)(1), the school calendar for the 2012-2013 calendar year for the pilot school systems shall include a minimum of 185 days or 1025 hours of instruction covering at least nine calendar months.

If the local board of education in a pilot school system adds instructional hours to previously scheduled days under this section, the local school administrative unit is deemed to have a minimum of 185 days of instruction, and teachers employed for a 10-month term are deemed to have been employed for the days being made up and shall be compensated as if they had worked the days being made up.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15, 2013, on the administration of the pilot program, cost savings realized by it, and its impact on student achievement.

RESIDENTIAL SCHOOLS

SECTION 7.8.(a) Section 7.25(a) of S.L. 2011-145 is repealed.

SECTION 7.8.(b) The Department of Public Instruction shall not transfer any school-based personnel from the residential schools to central office administrative positions.

SECTION 7.8.(c) Notwithstanding G.S. 146-30 or any other provision of law, the Department of Public Instruction shall retain all proceeds generated from the rental of building space on the residential school campuses. The Department of Public Instruction shall use all receipts generated from these leases to staff and operate the North Carolina School for the Deaf, the Eastern North Carolina School for the Deaf, and the Governor Morehead School. These receipts shall not be used to support administrative functions within the Department.

LIABILITY INSURANCE FOR PUBLIC SCHOOL PERSONNEL

SECTION 7.9.(a) Within 60 days of the effective date of this section, the local school administrative units shall provide written notification to all public school employees regarding the coverage provided by the State-funded liability insurance policy for North Carolina public school employees. Notification shall include information regarding policy coverage details, instructions on reporting claims, contact information for additional questions, and instructions on obtaining a copy of the policy.

SECTION 7.9.(b) From the funds available for liability insurance for public school personnel, the Department of Public Instruction shall distribute additional funds to local school administrative units on the basis of average daily membership in order to implement the requirements of subsection (a) of this section.

PILOT COOPERATIVE INNOVATIVE HIGH SCHOOL

SECTION 7.10. Notwithstanding G.S. 115C-238.51, the State Board of Education shall approve the establishment of a cooperative innovative high school pilot by the local boards of education of the Davidson County Schools, Thomasville City Schools, and Lexington City Schools and the local board of trustees of Davidson County Community College under Part 9 of Article 16 of Chapter 115C of the General Statutes. The pilot shall be known as the Yadkin Valley Regional Career Academy.

CLARIFYING COOPERATIVE INNOVATIVE HIGH SCHOOL STATUTES

SECTION 7.11.(a) G.S. 115C-238.50A reads as rewritten:

"§ 115C-238.50A. Definitions.

The following definitions apply in this Part:

- (1) Constituent institution. – A constituent institution as defined in G.S. 116-2(4).
- (1a) Cooperative innovative high school. – A high school approved by the State Board of Education and the applicable governing Board that meets the following criteria:
 - a. It has no more than 100 students per grade level.
 - b. It partners with an institution of higher education to enable students to concurrently obtain a high school diploma and begin or complete an associate degree program, master a certificate or vocational program, or earn up to two years of college credit within five years.
 - c. It is located on the campus of the partner institution of higher education, unless the governing ~~board~~ Board or the local board of trustees for a private North Carolina college specifically waives the requirement through adoption of a formal resolution.
- (1b) Cooperative innovative high school allotment. – Funds appropriated by the General Assembly to the Department of Public Instruction to provide additional resources to approved cooperative innovative high schools.
- (2) Education partner. – An education partner as provided in G.S. 115C-238.52.
- (3) Governing ~~board~~ Board. – The ~~State Board of Education, the State Board of Community Colleges, Colleges or the Board of Governors of The University of North Carolina, or the Board of the North Carolina Independent Colleges and Universities, Carolina.~~
- (3a) Local board of education. – A local board as defined in G.S. 115C-5(5) or a regional school board of directors as defined in G.S. 115C-238.61(5).
- (4) Local board of trustees. – The board of trustees of a community college, constituent institution of The University of North Carolina, or private college located in North Carolina.
- (5) Partner institution of higher education. – A community college, constituent institution of The University of North Carolina, or private college located in North Carolina."

SECTION 7.11.(b) G.S. 115C-238.51 reads as rewritten:

"§ 115C-238.51. Application process.

- (a) A local board of education and at least one local board of trustees shall jointly apply to establish a cooperative innovative high school program under this Part.
- (b) The application shall contain at least the following information:
 - (1) A description of a program that implements the purposes in G.S. 115C-238.50.
 - (2) A statement of how the ~~program~~ cooperative innovative high school relates to the Economic Vision Plan adopted for the economic development region in which the ~~program~~ cooperative innovative high school is to be located.

- (3) The facilities to be used by the ~~program~~cooperative innovative high school and the manner in which administrative services of the ~~programs~~school are to be provided.
- (4) A description of student academic and vocational achievement goals and the method of demonstrating that students have attained the skills and knowledge specified for those goals.
- (5) A description of how the ~~program~~cooperative innovative high school will be operated, including budgeting, curriculum, transportation, and operating procedures.
- (6) The process to be followed by the ~~program~~cooperative innovative high school to ensure parental involvement.
- (7) The process by which students will be selected for and admitted to the ~~program~~cooperative innovative high school.
- (8) A description of the funds that will be used and a proposed budget for the first five years of the implementation of the program-cooperative innovative high school. This description shall identify how the average daily membership (ADM) and full-time equivalent (FTE) students are counted. If additional funds are requested, a description of how those additional funds will be used shall be submitted. Additional funds may include the cooperative innovative high school allotment and tuition payments. For cooperative innovative high schools that have a community college as their partner institution of higher education, the proposed budget shall include the cost of including their students in calculations of budget full-time equivalent students for the North Carolina Community College System.
- (9) The qualifications required for individuals employed in the ~~program~~cooperative innovative high school.
- (10) The number of students to be served.
- (11) A description of how the ~~program's~~cooperative innovative high school's effectiveness in meeting the purposes in G.S. 115C-238.50 will be measured.

(c) The application shall be submitted to the State Board of Education and the applicable governing ~~Boards~~Board. If the partner institution of higher education is a private North Carolina college, the application shall be submitted solely to the State Board of Education. The Boards shall appoint a joint advisory committee to review the applications and to recommend to the Boards those programs that meet the requirements of this Part and that achieve the purposes set out in G.S. 115C-238.50.

(d) ~~The Boards may approve programs recommended by the joint advisory committee or may approve other programs that were not recommended. The Boards shall approve all applications by June 30 of each year. No application shall be approved unless the State Board of Education and the applicable governing Board find that the application meets the requirements set out in this Part and that granting the application would achieve the purposes set out in G.S. 115C-238.50. Priority shall be given to applications that are most likely to further State education policies, to address the economic development needs of the economic development regions in which they are located, and to strengthen the educational programs offered in the local school administrative units in which they are located.~~

(e) ~~No additional State funds shall be provided to approved programs unless appropriated by the General Assembly."~~

SECTION 7.11.(c) Part 9 of Article 16 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-238.51A. Approval process.

(a) Joint Advisory Committee. – The State Board of Education and the applicable governing Board of the local board of trustees shall appoint a joint advisory committee to review the applications and to recommend approval for those applications that meet the

requirements of this Part and achieve purposes set out in G.S. 115C-238.50. The recommendation shall indicate whether additional funds were requested in the application.

(b) No Additional Funds. – For applications which have not requested additional funds, the State Board of Education and the applicable governing Board may approve cooperative innovative high schools. In granting approval, consideration shall be given to the proposed budget and demonstration of sources of sustainable funding for the operation of the cooperative innovative high school. Approvals shall be made by June 30 of each year. No additional State funds, position allotments, earning of budget full-time equivalent students, or payments of tuition shall be provided to cooperative innovative high schools approved under this subsection.

(c) Additional Funds. – For applications which have requested additional funds, the State Board of Education and the applicable governing Board may approve cooperative innovative high schools contingent upon appropriation of the additional funds by the General Assembly. Contingent approval shall be made by April 1 of each year. The contingent approval shall expire if no appropriation is made by the General Assembly for the additional funds within one calendar year. No cooperative innovative high school shall open prior to the appropriation by the General Assembly of the full amount of the additional funds as requested in the application for that school under G.S. 115C-238.51 for the upcoming fiscal year or fiscal biennium, as appropriate. If no appropriation is made by the General Assembly, a revised application may be submitted under subsection (b) of this section."

SECTION 7.11.(d) G.S. 115C-238.52 reads as rewritten:

"§ 115C-238.52. **Participation by other education partners.**

(a) Any or all of the following education partners may participate in the development of a cooperative innovative ~~program~~ high school under this Part that is targeted to high school students who would benefit from accelerated academic instruction:

- (1), (2) Repealed by Session Laws 2005-276, s. 7.33(a), effective July 1, 2005.
- (3) A private business or organization.
- (4) The county board of commissioners in the county in which the ~~program~~ cooperative innovative high school is located.

(b) Any or all of the education partners listed in subsection (a) of this section that participate shall:

- (1) Jointly apply with the local board of education and the local board of trustees to establish a cooperative innovative ~~program~~ high school under this Part.
- (2) Be identified in the application.
- (3) Sign the written agreement under G.S. 115C-238.53(b)."

SECTION 7.11.(e) G.S. 115C-238.53 reads as rewritten:

"§ 115C-238.53. ~~Program operation.~~ **Operation of cooperative innovative high schools.**

(a) A ~~program~~ cooperative innovative high school approved by the State is accountable to the local board of education.

(b) A ~~program~~ cooperative innovative high school approved under this Part shall operate under the terms of a written agreement signed by the local board of education, local board of trustees, State Board of Education, and applicable governing Board. The agreement shall incorporate the information provided in the application, as modified during the approval process, and any terms and conditions imposed on the ~~program~~ school by the State Board of Education and the applicable governing Board. The agreement may be for a term of no longer than five school years.

(c) A ~~program~~ cooperative innovative high school may be operated in a facility owned or leased by the local board of education, the local board of trustees, or the education partner, if any.

(d) A ~~program~~ cooperative innovative high school approved under this Part shall provide instruction each school year for at least ~~180~~ 185 days during nine calendar months, shall comply with laws and policies relating to the education of students with disabilities, and shall comply with Article 27 of this Chapter.

(e) A ~~program~~cooperative innovative high school approved under this Part may use State, federal, and local funds allocated to the local school administrative unit, to the applicable governing Board, and to the ~~college or university~~partner institution of higher education to implement ~~the~~its program. If there is an education partner and if it is a public body, the ~~program~~cooperative innovative high school may use State, federal, and local funds allocated to that body.

(f) Except as provided in this Part and under the terms of the ~~agreement~~agreement, cooperative innovative high schools:

- (1) ~~A program shall~~Shall have the same exemptions from statutes and rules as charter schools operating under Part 6A of this Article, other than those pertaining to personnel.
- (2) ~~A program may~~May be exempted by the State Board of Education or by the applicable governing Board from laws and rules applicable to a local board of education, a local school administrative unit, a community college, a constituent institution, or a local board of trustees."

SECTION 7.11.(f) G.S. 115C-238.54 reads as rewritten:

"§ **115C-238.54. Funds for ~~programs~~cooperative innovative high schools.**

(a) The Department of Public Instruction shall assign a school code for each ~~program~~cooperative innovative high school that is approved under this Part. Notwithstanding G.S. 115C-105.25, once the ~~program~~cooperative innovative high school has been assigned a school code, the local board of education may use these funds for the ~~program~~school and may transfer these funds between funding allotment categories.

(a1) Repealed by Session Laws 2011-145, s. 7.1A(j), effective January 1, 2012.

(b) The local board of trustees may allocate State and federal funds for a ~~program~~cooperative innovative high school that is approved under this Part.

(c) An education partner under G.S. 115C-238.52 that is a public body may allocate State, federal, and local funds for a ~~program~~cooperative innovative high school that is approved under this Part.

(d) If not an education partner under G.S. 115C-238.52, a county board of commissioners in a county where a ~~program~~cooperative innovative high school is located may nevertheless appropriate funds to a ~~program~~the school approved under this Part.

(e) The local board of education and the local board of trustees are strongly encouraged to seek funds from sources other than State, federal, and local appropriations. They are strongly encouraged to seek funds the Education Cabinet identifies or obtains under G.S. 116C-4.

(f) Students in cooperative innovative high schools shall not be charged tuition for courses taken through the partner institution of higher education.

(g) Students in cooperative innovative high schools that have a community college as their partner institution of higher education and were approved under G.S. 115C-238.51A(c) shall be included in calculations of budget full-time equivalent students for the North Carolina Community College System. Students in cooperative innovative high schools that have a community college as their partner institution of higher education and were approved under G.S. 115C-238.51A(b) shall not be included in calculations of budget full-time equivalent students for the North Carolina Community College System.

(h) The State Board of Education shall reimburse The University of North Carolina for tuition for courses taken by students at cooperative innovative high schools that have a constituent institution of The University of North Carolina as their partner institution of higher education and were approved under G.S. 115C-238.51A(c). Tuition payments shall not exceed the annual Board of Governors-approved undergraduate resident tuition rate calculated on a per credit hour basis and shall not include fees. In addition, the cooperative innovative high school students' credit hours shall be nonfundable under The University of North Carolina Semester Credit Hour Enrollment Change Funding Model. The State Board of Education shall not reimburse The University of North Carolina for tuition for courses taken by students at cooperative innovative high schools that have a constituent institution of The University of

North Carolina as their partner institution of higher education and were approved under G.S. 115C-238.51A(b).

(i) The State Board of Education shall reimburse private North Carolina colleges for tuition for courses taken by students at cooperative innovative high schools that have a private North Carolina college as their partner institution of higher education and were approved under G.S. 115C-238.51A(c). Tuition payments shall not exceed the highest undergraduate resident rate approved by the Board of Governors for The University of North Carolina constituent institutions and shall not include fees. The State Board of Education shall not reimburse private North Carolina colleges for tuition for courses taken by students at cooperative innovative high schools that have a private North Carolina college as their partner institution of higher education and were approved under G.S. 115C-238.51A(b)."

SECTION 7.11.(g) G.S. 115C-238.55 reads as rewritten:

"§ **115C-238.55. Evaluation of ~~programs~~ cooperative innovative high schools.**

The State Board of Education and the governing Boards shall evaluate the success of students in ~~programs~~ cooperative innovative high schools approved under this Part. Success shall be measured by high school retention rates, high school completion rates, high school dropout rates, certification and associate degree completion, admission to four-year institutions, postgraduation employment in career or study-related fields, and employer satisfaction of employees who participated in and graduated from the ~~programs~~ schools. The Boards shall jointly report by January 15 of each year to the Joint Legislative Education Oversight Committee on the evaluation of these ~~programs~~ schools."

SECTION 7.11.(h) Section 7.21(e) of S.L. 2010-31 is repealed.

SECTION 7.11.(i) This section is effective when it becomes law.

NORTH CAROLINA VIRTUAL PUBLIC SCHOOLS

SECTION 7.12. Section 7.22(k) of S.L. 2011-145 reads as rewritten:

~~"SECTION 7.22.(k) The State Board shall use only funds provided through the North Carolina Virtual Public Schools Allotment Formula and the NCVPS enrollment reserve as set forth in this section to fund instructional costs of NCVPS. The only funds that may be used for the instructional costs of NCVPS are the following:~~

- (1) Funds provided through the North Carolina Virtual Public Schools Allotment Formula.
- (2) Funds provided through the NCVPS enrollment reserve as set forth in this section.
- (3) Local funds.
- (4) Federal funds.
- (5) Special State Reserve Funds for Children and Youth with Disabilities.
- (6) ADM Contingency Reserve.

REPEAL OBSOLETE REPORTS

SECTION 7.13.(a) Section 7.19(d) of S.L. 2007-323 is repealed.

SECTION 7.13.(b) Section 7.21 of S.L. 2007-323 is repealed.

SECTION 7.13.(c) G.S. 115C-276(t) is repealed.

SECTION 7.13.(d) Subsections (c) and (g) of Section 7.5 of S.L. 2010-31 are repealed.

SECTION 7.13.(e) Section 7.19(c) of S.L. 2010-31 is repealed.

SECTION 7.13.(f) G.S. 115C-12(26) is repealed.

TEACHER/TEACHER ASSISTANT LEAVE ON INSTRUCTIONAL DAYS.

SECTION 7.14.(a) G.S. 115C-302.1(c) reads as rewritten:

"(c) Vacation. – Included within the 10-month term shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth of the annual rate for State employees for each month of employment. Local boards shall provide at least 10 days of

annual vacation leave at a time when students are not scheduled to be in regular attendance. However, instructional personnel who do not require a substitute may use annual vacation leave on days that students are in attendance. Vocational and technical education teachers who are employed for 11 or 12 months may, with prior approval of the principal, work on annual vacation leave days designated in the school calendar and may use those annual vacation leave days during the eleventh or twelfth month of employment. Local boards of education may adopt policies permitting instructional personnel employed for 11 or 12 months in year-round schools to, with the approval of the principal, take vacation leave at a time when students are in attendance; local funds shall be used to cover the cost of substitute teachers.

On a day that pupils are not required to attend school due to inclement weather, but employees are required to report for a workday, a teacher may elect not to report due to hazardous travel conditions and to take an annual vacation day or to make up the day at a time agreed upon by the teacher and the teacher's immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, a teacher shall work on the scheduled makeup day.

All vacation leave taken by the teacher will be upon the authorization of the teacher's immediate supervisor and under policies established by the local board of education. Annual vacation leave shall not be used to extend the term of employment.

Notwithstanding any provisions of this subsection to the contrary, no person shall be entitled to pay for any vacation day not earned by that person."

SECTION 7.14.(b) G.S. 115C-316(a)(3) reads as rewritten:

"(3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. The first 10 days of annual leave earned by a 10- or 11-month employee during any fiscal year period shall be scheduled to be used in the school calendar adopted by the respective local boards of education. Vacation days shall not be used for extending the term of employment of individuals. Ten- or 11-month employees may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any of these employees with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by these employees shall be upon the authorization of their immediate supervisor and under policies established by the local board of education. The policies may permit teacher assistants who require a substitute and are employed for 11 or 12 months in year-round schools to take vacation leave at a time when students are in attendance; local funds shall be used to cover the cost of substitutes. Vacation leave for instructional personnel who do not require a substitute shall not be restricted to days that students are not in attendance. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours or 30 days when separated from service due to resignation, dismissal, reduction in force, death or service retirement. Upon separation from service due to service retirement, any annual vacation leave over 30 days will convert to sick leave and may be used for creditable service at retirement in accordance with G.S. 135-4(e). If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision."

SECTION 7.14.(c) This section applies beginning with the 2012-2013 school year.

GEOGRAPHICALLY ISOLATED SCHOOLS

SECTION 7.16. A local school administrative unit receiving special allotments for a small, geographically isolated school shall continue to receive one-half of that special allotment funding for the fiscal year after the school is closed. These funds shall be used to assist in the transition of students from the closed school to other schools in the local school administrative unit.

INVESTING IN INNOVATION GRANT

SECTION 7.17.(a) The federal Investing in Innovation Fund Grant: Validating Early College Strategies for Traditional Comprehensive High Schools awarded to the North Carolina New Schools Project for 2012-2017 requires students to enroll in a community college course in the tenth grade. Notwithstanding any other provision of law, specified local school administrative units may offer one community college course to participating sophomore (tenth grade) students. Participating local school administrative units are Alleghany, Beaufort, Hertford, Jones, Madison, Richmond, Rutherford, Sampson, Surry, Wilkes, and Yancey County Schools.

SECTION 7.17.(b) Grant funds shall be used to pay for all costs incurred by the local school administrative units and the community college partners to implement the grant, including community college FTE. Community colleges shall not earn budget FTE for student course enrollments supported with this grant.

SECTION 7.17.(c) Research for the project shall address the effects of early college strategies in preparing students for college completion. The North Carolina New Schools Project shall report on the implementation of the grant to the State Board of Education, State Board of Community Colleges, Office of the Governor, and the Joint Legislative Education Oversight Committee no later than March 15, 2013, and annually thereafter until the end of the grant period.

BUDGETING OF POSITION ALLOTMENTS

SECTION 7.18.(a) Section 7.21(a) of S.L. 2011-145 reads as rewritten:

"SECTION 7.21.(a) For fiscal years 2011-2012 and 2012-2013, the State Board of Education is authorized to extend its emergency rules, in accordance with G.S. 150B-21.1A, granting maximum flexibility to local school administrative units regarding the expenditure of State funds. These rules shall not be subject to the limitations on transfers of funds between funding allotment categories set out in G.S. 115C-105.25. However, these rules shall not permit the following transfers:

- (1) The transfer of funds into central office administration.
- (2) The transfer of funds from the classroom teachers allotment to any allotment other than teacher assistants allotment.
- (3) The transfer of funds from the teacher assistants allotment to any allotment other than the classroom teachers allotment.

For funds related to classroom teacher positions, the salary transferred shall be based on the first step of the "A" Teachers salary schedule."

SECTION 7.18.(b) Local school administrative units may transfer funds for certified instructional support personnel for any purpose not otherwise prohibited by the State Board of Education's ABC transfer policy by submitting an ABC Transfer Form to the Department of Public Instruction. For funds related to certified instructional support personnel positions, the salary transferred shall be based on the first step of the "A" Teachers salary schedule. No local school administrative unit shall convert certified position allotments to dollars in order to hire the same type of position.

UNIFORM EDUCATION REPORTING SYSTEM (UERS) FUNDS

SECTION 7.19.(a) Funds appropriated for the Uniform Education Reporting System shall not revert at the end of the 2011-2012 fiscal year.

SECTION 7.19.(b) This section becomes effective June 30, 2012.

PART VII-A. EXCELLENT PUBLIC SCHOOLS ACT**IMPROVE K-3 LITERACY**

SECTION 7A.1.(a) G.S. 115C-81.2 is repealed.

SECTION 7A.1.(b) Article 8 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 1A. North Carolina Read to Achieve Program.

"§ 115C-83.1A. State goal.

The goal of the State is to ensure that every student read at or above grade level by the end of third grade and continue to progress in reading proficiency so that he or she can read, comprehend, integrate, and apply complex texts needed for secondary education and career success.

"§ 115C-83.1B. Purposes.

(a) The purposes of this Part are to ensure that (i) difficulty with reading development is identified as early as possible; (ii) students receive appropriate instructional and support services to address difficulty with reading development and to remediate reading deficiencies; and (iii) each student and his or her parent or guardian be continuously informed of the student's academic needs and progress.

(b) In addition to the purposes listed in subsection (a) of this section, the purpose of this Part is to determine that progression from one grade to another be based, in part, upon proficiency in reading.

"§ 115C-83.1C. Definitions.

The following definitions apply in this Part:

- (1) "Accelerated reading class" means a class where focused instructional supports and services are provided to increase a student's reading level at least two grades in one school year.
- (2) "Alternative assessment" means a valid and reliable standardized assessment of reading comprehension, approved by the State Board of Education, that is not the same test as the State-approved standardized test of reading comprehension administered to third grade students.
- (3) "Instructional supports and services" mean intentional strategies used with a majority of students to facilitate reading development and remediate emerging difficulty with reading development. Instructional supports and services include, but are not limited to, small group instruction, reduced teacher-student ratios, frequent progress monitoring, and extended learning time.
- (4) "Difficulty with reading development" means not demonstrating appropriate developmental abilities in any of the major reading areas, including, but not limited to, oral language, phonological or phonemic awareness, vocabulary, fluency, or comprehension, according to observation-based, diagnostic, or formative assessments.
- (5) "Reading interventions" mean evidence-based strategies frequently used to remediate reading deficiencies and include, but are not limited to, individual instruction, tutoring, or mentoring that target specific reading skills and abilities.

- (6) "Reading proficiency" means reading at or above the third grade level by the end of a student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.
- (7) "Reading deficiency" means not reading at the third grade level by the end of the student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.
- (8) "Student reading portfolio" means a compilation of independently produced student work selected by the student's teacher, and signed by the teacher and principal, as an accurate picture of the student's reading ability. The student reading portfolio shall include an organized collection of evidence of the student's mastery of the State's reading standards that are assessed by the State-approved standardized test of reading comprehension administered to third grade students. For each benchmark, there shall be three examples of student work demonstrating mastery by a grade of seventy percent (70%) or above.
- (9) "Summer reading camp" means an additional educational program outside of the instructional calendar provided by the local school administrative unit to any student who does not demonstrate reading proficiency. Parents or guardians of the student not demonstrating reading proficiency shall make the final decision regarding the student's summer camp attendance. Summer camps shall (i) be six to eight weeks long, four or five days per week; (ii) include at least three hours of instructional time per day; (iii) be taught by compensated, licensed teachers selected based on demonstrated student outcomes in reading proficiency; and (iv) allow volunteer mentors to read with students.
- (10) "Transitional third and fourth class combination" means a classroom specifically designed to produce learning gains sufficient to meet fourth grade performance standards while continuing to remediate areas of reading deficiency.

"§ 115C-83.1D. Comprehensive plan for reading achievement.

(a) The State Board of Education shall develop, implement, and continuously evaluate a comprehensive plan to improve reading achievement in the public schools. The plan shall be based on reading instructional practices with strong evidence of effectiveness in current empirical research in reading development. The plan shall be developed with the active involvement of teachers, college and university educators, parents and guardians of students, and other interested parties. The plan shall, when appropriate to reflect research, include revision of the standard course of study or other curricular standards, revision of teacher licensure and renewal standards, and revision of teacher education program standards.

(b) The State Board of Education shall report biennially to the Joint Legislative Education Oversight Committee by October 1 of each even-numbered year on the implementation, evaluation, and revisions to the comprehensive plan for reading achievement and shall include recommendations for legislative changes to enable implementation of current empirical research in reading development.

"§ 115C-83.1E. Developmental screening and kindergarten entry assessment.

(a) The State Board of Education shall ensure that every student entering kindergarten shall be administered a developmental screening of early language, literacy, and math skills within 30 days of enrollment.

(b) The State Board of Education shall ensure that every student entering kindergarten shall complete a kindergarten entry assessment within 60 days of enrollment.

(c) The developmental screening instrument may be composed of subsections of the kindergarten entry assessment.

(d) The kindergarten entry assessment shall address the five essential domains of school readiness: language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development.

(e) The kindergarten entry assessment shall be (i) administered at the classroom level in all local school administrative units; (ii) aligned to North Carolina's early learning and development standards and to the standard course of study; and (iii) reliable, valid, and appropriate for use with all children, including those with disabilities and those who are English language learners.

(f) The results of the developmental screening and the kindergarten entry assessment shall be used to inform the following:

- (1) The status of children's learning at kindergarten entry.
- (2) Instruction of each child.
- (3) Efforts to reduce the achievement gap at kindergarten entry.
- (4) Continuous improvement of the early childhood system.

"§ 115C-83.1F. Facilitating early grade reading proficiency.

(a) Kindergarten, first, second, and third grade students shall be assessed with valid, reliable, formative, and diagnostic reading assessments made available to local school administrative units by the State Board of Education pursuant to G.S. 115C-174.11(a). Difficulty with reading development identified through administration of formative and diagnostic assessments shall be addressed with instructional supports and services. To the greatest extent possible, kindergarten through third grade reading assessments shall yield data that can be used with the Education Value-Added Assessment System (EVAAS), or a compatible and comparable system approved by the State Board of Education, to analyze student data to identify root causes for difficulty with reading development and to determine actions to address them.

(b) Formative and diagnostic assessments and resultant instructional supports and services shall address oral language, phonological and phonemic awareness, phonics, vocabulary, fluency, and comprehension using developmentally appropriate practices.

(c) Local school administrative units are encouraged to partner with community organizations, businesses, and other groups to provide volunteers, mentors, or tutors to assist with the provision of instructional supports and services that enhance reading development and proficiency.

"§ 115C-83.1G. Elimination of social promotion.

(a) The State Board of Education shall require that a student be retained in the third grade if the student fails to demonstrate reading proficiency appropriate for a third grade student, as demonstrated on a State-approved standardized test of reading comprehension administered to third grade students. The test may be readministered once prior to the end of the school year.

(b) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

- (1) Limited English Proficient students with less than two years of instruction in an English as a Second Language program.
- (2) Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.
- (3) Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment approved by the State Board of Education. Teachers may administer the alternative assessment following the administration of the State-approved standardized test of reading comprehension typically given to third grade students at the end of the

school year, or after a student's participation in the local school administrative unit's summer reading camp.

(4) Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students. Teachers may submit the student reading portfolio at the end of the school year or after a student's participation in the local school administrative unit's summer reading camp. The student reading portfolio and review process shall be established by the State Board of Education.

(5) Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second, or third grades.

(c) The superintendent shall determine whether a student may be exempt from mandatory retention on the basis of a good cause exemption. The following steps shall be taken in making the determination:

(1) The teacher of a student eligible for a good cause exemption shall submit documentation of the relevant exemption and evidence that promotion of the student is appropriate based on the student's academic record to the principal. Such evidence shall be limited to the student's personal education plan, individual education program, if applicable, alternative assessment, or student reading portfolio.

(2) The principal shall review the documentation and make an initial determination whether the student should be promoted. If the principal determines the student should be promoted, the principal shall make a written recommendation of promotion to the superintendent for final determination. The superintendent's acceptance or rejection of the recommendation shall be in writing.

"§ 115C-83.1H. Successful reading development for retained students.

(a) Students not demonstrating reading proficiency shall be enrolled in a summer reading camp provided by the local school administrative unit prior to being retained. Students who demonstrate reading proficiency on an alternative assessment of reading comprehension or student reading portfolio after completing a summer reading camp shall be promoted to the fourth grade. Students who do not demonstrate reading proficiency on these measures after completing a summer reading camp shall be retained under G.S. 115C-83.1G(a) and provided with the instruction listed in subsection (b) of this section during the retained year.

(b) Students retained under G.S. 115C-83.1G(a) shall be provided with a teacher selected based on demonstrated student outcomes in reading proficiency and placed in an accelerated reading class or a transitional third and fourth grade class combination, as appropriate. Classroom instruction shall include at least 90 minutes of daily, uninterrupted, evidence-based reading instruction, not to include independent reading time, and other appropriate instructional supports and services and reading interventions.

(c) The State Board of Education shall establish a midyear promotion policy for any student retained under G.S. 115C-83.1G(a) who, by November 1, demonstrates reading proficiency through administration of the alternative assessment of reading comprehension or student reading portfolio review.

(d) Parents or guardians of students who have been retained once under the provisions of G.S. 115C-83.1G(a) shall be provided with a plan for reading at home, including participation in shared and guided reading workshops for the parent or guardian, and outlined in a parental or guardian contract.

(e) Parents or guardians of students who have been retained twice under the provisions of G.S. 115C-83.1G(a) shall be offered supplemental tutoring for the retained student in evidence-based reading services outside the instructional day.

"§ 115C-83.1I. Notification requirements to parents and guardians.

(a) Parents or guardians shall be notified in writing, and in a timely manner, that the student shall be retained, unless he or she is exempt from mandatory retention for good cause, if the student is not demonstrating reading proficiency by the end of third grade. Parents or guardians shall receive this notice when a kindergarten, first, second, or third grade student (i) is demonstrating difficulty with reading development; (ii) is not reading at grade level; or (iii) has a personal education plan under G.S. 115C-105.41.

(b) Parents or guardians of any student who is to be retained under the provisions of G.S. 115C-83.1G(a) shall be notified in writing of the reason the student is not eligible for a good cause exemption as provided in G.S. 115C-83.1G(b). Written notification shall also include a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(c) Parents or guardians of students retained under G.S. 115C-83.1G(a) shall receive at least monthly written reports on student progress toward reading proficiency. The evaluation of the student's progress shall be based upon the student's classroom work, observations, tests, assessments, and other relevant information.

(d) Teachers and principals shall provide opportunities to discuss with parents and guardians the notifications listed in this section.

"§ 115C-83.1J. Accountability measures.

(a) Each local board of education shall publish annually on a Web site maintained by that local school administrative unit and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

- (1) The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.
- (2) The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.
- (3) The number and percentage of third grade students retained for not demonstrating reading proficiency.
- (4) The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.1G(b).

(b) Each local board of education shall report annually in writing to the State Board of Education by September 1 of each year a description of all reading interventions provided to students who have been retained under G.S. 115C-83.1G(a).

(c) The State Board of Education shall establish a uniform format for local boards of education to report the required information listed in subsections (a) and (b) of this section and shall provide the format to local boards of education no later than 90 days prior to the annual due date. The State Board of Education shall compile annually this information and submit a State-level summary to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Education Oversight Committee by October 1 of each year, beginning with the 2014-2015 school year.

(d) The State Board of Education and the Department of Public Instruction shall provide technical assistance as needed to aid local school administrative units to implement all provisions of this Part."

SECTION 7A.1.(c) G.S. 115C-105.27(b)(1a) is repealed.

SECTION 7A.1.(d) G.S. 115C-105.41 reads as rewritten:

"§ 115C-105.41. Students who have been placed at risk of academic failure; personal education plans.

In order to implement Part 1A of Article 8 of this Chapter, ~~Local~~ local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning ~~no later than the fourth grade in kindergarten.~~ Identification shall occur as early as can reasonably be done and

can be based on grades, observations, diagnostic and formative assessments, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. No later than the end of the first quarter, or after a teacher has had up to nine weeks of instructional time with a student, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed or updated for any student at risk of academic failure who is not performing at least at grade level, as identified by the State end-of-grade test and other factors noted above. Focused instructional supports and services, reading ~~intervention~~ interventions, and accelerated activities should include ~~research-based best~~ evidence-based practices that meet the needs of students and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Local school administrative units shall give notice of the personal education plan and a copy of the personal education plan to the student's parent or guardian. Parents should be included in the implementation and ongoing review of personal education plans.

Local school administrative units shall certify that they have complied with this section annually to the State Board of Education. The State Board of Education shall periodically review data on the progress of identified students and report to the Joint Legislative Education Oversight Committee.

No cause of action for monetary damages shall arise from the failure to provide or implement a personal education plan under this section."

SECTION 7A.1.(e) G.S. 115C-174.11(a) reads as rewritten:

"(a) Assessment Instruments for ~~First and Second Grades~~ Kindergarten, First, Second, and Third Grades. – The State Board of Education shall ~~adopt~~ develop, adopt, and provide to the local school administrative units developmentally appropriate individualized assessment instruments consistent with the Basic Education Program and Part 1A of Article 8 of this Chapter for the ~~first and second grades, rather than standardized tests~~ kindergarten, first, second, and third grades. Local school administrative units ~~may~~ shall use these assessment instruments provided to them by the State Board for ~~first and second grade students, kindergarten, first, second, and third grade students to assess progress, diagnose difficulties, and inform instruction and remediation needs~~, and Local school administrative units shall not use standardized tests for summative assessment of kindergarten, first, and second grade students except as required as a condition of receiving federal grants."

SECTION 7A.1.(f) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(d1) Reading Proficiency and Student Promotion. –

- (1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.
- (2) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

- a. Limited English Proficient students with less than two years of instruction in an English as a Second Language program.
 - b. Students with disabilities, as defined in G.S. 115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions.
 - c. Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment of reading comprehension. The charter school shall notify the State Board of Education of the alternative assessment used to demonstrate reading proficiency.
 - d. Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students.
 - e. Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second, or third grades.
- (3) The charter school shall provide notice to parents and guardians when a student is not reading at grade level. The notice shall state that if the student's reading deficiency is not remediated by the end of third grade, the student shall be retained unless he or she is exempt from mandatory retention for good cause. Notice shall also be provided to parents and guardians of any student who is to be retained under this subsection of the reason the student is not eligible for a good cause exemption, as well as a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.
- (4) The charter school shall annually publish on the charter school's Web site and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:
- a. The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.
 - b. The number and percentage of third grade students not demonstrating reading proficiency and who do not return to the charter school for the following school year.
 - c. The number and percentage of third grade students who take and pass the alternative assessment of reading comprehension.
 - d. The number and percentage of third grade students retained for not demonstrating reading proficiency.
 - e. The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in subdivision (2) of this subsection."

SECTION 7A.1.(g) G.S. 115C-288(a) reads as rewritten:

"(a) To Grade and Classify Pupils. – The principal shall have authority to grade and classify ~~pupils~~ pupils, except as provided in G.S. 115C-83.1G(a). In determining the appropriate grade for a pupil who is already attending a public school, the principal shall consider the pupil's classroom work and grades, the pupil's scores on standardized tests, and the best educational interests of the pupil. The principal shall not make the decision solely on the basis of standardized test scores. If a principal's decision to retain a child in the same grade is partially based on the pupil's scores on standardized tests, those test scores shall be verified as accurate.

A principal shall not require additional testing of a student entering a public school from a school governed under Article 39 of this Chapter if test scores from a nationally standardized test or nationally standardized equivalent measure that are adequate to determine the appropriate placement of the child are available."

SECTION 7A.1.(h) G.S. 130A-440(b) reads as rewritten:

"(b) A health assessment shall include a medical history and physical examination with screening for vision and hearing and, if appropriate, testing for anemia and tuberculosis. Vision screening shall be conducted in accordance with G.S. 130A-440.1. The health assessment may also include dental screening and developmental screening for cognition, language, and motor function. The developmental screening of cognition and language abilities may be conducted in accordance with G.S. 115C-83.1E(a)."

SECTION 7A.1.(i) This section is effective when it becomes law and applies beginning with the 2013-2014 school year. The developmental screening and kindergarten entry assessment required by this section shall be administered beginning with the 2014-2015 school year.

SCHOOL PERFORMANCE GRADES

SECTION 7A.3.(a) G.S. 115C-12(9)c1. reads as rewritten:

"c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. As a part of the annual "report card" for each local school administrative unit, the State Board shall award an overall numerical school performance score on a scale of zero to 100 and a corresponding letter grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance score and grade shall reflect student performance on annual subject-specific assessments, college and workplace readiness measures, and graduation rates. For schools serving students in any grade from kindergarten to eighth grade, separate performance scores and grades shall also be awarded based on the school performance in reading and mathematics respectively. The annual "report card" for schools serving students in third grade also shall include the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.1G(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.1G(b)."

SECTION 7A.3.(b) G.S. 115C-47(58) reads as rewritten:

"(58) To Inform the Public About the North Carolina School Report Cards Issued by the State Board of Education. – Each local board of education shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or ~~otherwise~~ is otherwise provided to the public. Each local board of education shall ensure that the overall school performance score and grade earned by each school in the local school administrative unit for the current and previous four school years is prominently displayed on the Web site of the local school

administrative unit. If any school in the local school administrative unit is awarded a grade of D or F, the local board of education shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 7A.3.(c) G.S. 115C-238.29F is amended by adding a new subsection to read:

"(l) North Carolina School Report Cards. – A charter school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A charter school shall ensure that the overall school performance score and grade earned by the charter school for the current and previous four school years is prominently displayed on the school Web site. If a charter school is awarded a grade of D or F, the charter school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 7A.3.(d) G.S. 115C-238.66 is amended by adding a new subdivision to read:

"(11) North Carolina School Report Cards. – A regional school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A regional school shall ensure that the overall school performance score and grade earned by the regional school for the current and previous four school years is prominently displayed on the school Web site. If a regional school is awarded a grade of D or F, the regional school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school."

SECTION 7A.3.(e) The State Board of Education shall award school performance scores and grades as required by G.S. 115C-12(9)c1. as follows:

- (1) The State Board of Education shall calculate school performance scores by totaling the sum of points earned by the school and converting the sum of points to a 100-point scale. Subdivisions (2) and (3) of this section provide the school performance elements for schools serving students in kindergarten through eighth grade. Subdivision (4) of this section provides the school performance elements for schools serving grades nine through twelve. The school performance score shall be used to determine the school performance grade based on the following scale:
 - a. At least 90 performance grade points for an overall school performance grade of A.
 - b. At least 80 performance grade points for an overall school performance grade of B.
 - c. At least 70 performance grade points for an overall school performance grade of C.
 - d. At least 60 performance grade points for an overall school performance grade of D.
 - e. A school that accumulates fewer than 60 points shall be assigned an overall school performance grade of F.
- (2) For schools serving students in kindergarten through eighth grade, the overall school performance score shall be calculated based on the sum of three school performance elements.
 - a. The score shall be calculated as follows:

1. One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.
 2. One point for each percent of students who score at or above proficient on annual assessments for reading in grades three through eight.
 3. One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.
- (3) For schools serving students in kindergarten through eighth grade, the school performance scores in reading and mathematics, respectively, shall be earned as follows:
- a. The literacy school performance score shall be based on the percent of students who score at or above proficient on annual assessments for reading assessments in grades three through eight.
 - b. The mathematics school performance score shall be based on the percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight.
- (4) The school performance score earned by schools serving students in ninth through twelfth grades shall be calculated based on the sum of seven school performance elements.
- a. The score shall be calculated as follows:
 1. One point for each percent of students who score at or above proficient on annual assessments for mathematics.
 2. One point for each percent of students who score at or above proficient on annual assessments for English.
 3. One point for each percent of students who score at or above proficient on annual assessments for biology.
 4. One point for each percent of students who complete a higher level mathematics class with a passing grade.
 5. One point for each percent of students who score at or above a level demonstrating college readiness on a nationally normed test of college readiness.
 6. One point for each percent of students who graduate within four years of entering high school.
 7. One point for each percent of students who demonstrate workplace readiness on a nationally normed test of workplace readiness.
- (5) In calculating the overall school performance score earned by schools, the State Board of Education shall proportionally adjust the scale to account for the absence of a school performance element for award of scores to a school that does not have a measure of one of the school performance elements annually assessed for the grades taught at that school.
- (6) The State Board of Education shall report to the Joint Legislative Education Oversight Committee annually by January 15 on recommended adjustments to the school performance grade elements and scales for award of scores and grades.

SECTION 7A.3.(f) It is the intent of the General Assembly to add a student growth component to school performance grades.

SECTION 7A.3.(g) This section is effective when it becomes law and applies beginning with the 2012-2013 school year.

FUNDING FOR THE ADDITION OF FIVE INSTRUCTIONAL DAYS WITHIN THE EXISTING SCHOOL CALENDAR

SECTION 7A.6.(a) To fully provide for the expansion of five additional instructional days in accordance with S.L. 2011-145, Section 7.29 for those days for which a local school administrative unit has not requested and received a waiver from the State Board of Education for the 2012-2013 school year:

- (1) Of the funds appropriated from the General Fund to the Department of Public Instruction for the 2012-2013 fiscal year, the sum of forty thousand one hundred sixty-eight dollars (\$40,168) shall be used to increase the amount appropriated for the noninstructional support personnel allotment.
- (2) Of the funds appropriated from the General Fund to the Department of Public Instruction for the 2012-2013 fiscal year, the sum of three hundred fifty-one thousand four hundred sixty-nine dollars (\$351,469) shall be used to increase the amount appropriated for the transportation allotment.

SECTION 7A.6.(b) This section becomes effective July 1, 2012.

ESTABLISH NC TEACHER CORPS

SECTION 7A.7.(a) Article 20 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-296.7. North Carolina Teacher Corps.

(a) There is established the North Carolina Teacher Corps (NC Teacher Corps) to recruit and place recent graduates of colleges and universities and mid-career professionals as teachers in high needs public schools.

(b) The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the North Carolina Independent Colleges and Universities, shall develop and administer the NC Teacher Corps. In the development of the NC Teacher Corps, the State Board of Education shall consider examples of other successful teacher recruitment models used nationally and in other states.

(c) Applications shall be received annually for admission to the NC Teacher Corps. The State Board of Education shall establish application criteria, including, at a minimum, an award of a bachelor's degree from an accredited college or university. The State Board of Education may establish a committee to annually evaluate and select candidates for admission to the NC Teacher Corps.

(d) The State Board of Education shall identify local school administrative units with unmet recruitment needs and high needs schools and shall coordinate placement of NC Teacher Corps members in those schools.

(e) The State Board of Education, in coordination with the Board of Governors, shall develop an intensive summer training institute for NC Teacher Corps members to provide coursework and training on essential teaching frameworks, curricula, and lesson-planning skills, as well as identification and education of students with disabilities, positive management of student behavior, effective communication for defusing and deescalating disruptive and dangerous behavior, and safe and appropriate use of seclusion and restraint. The intensive summer training institute also shall address identification of difficulty with reading development and of reading deficiencies and the provision of reading instruction, intervention, and remediation strategies.

(f) The State Board of Education, in coordination with the Board of Governors, shall provide ongoing support to NC Teaching Corps members through coaching, mentoring, and continued professional development.

(g) NC Teaching Corps members shall be granted lateral entry teaching licenses pursuant to G.S. 115C-296(c)."

SECTION 7A.7.(b) This section is effective when it becomes law. The State Board of Education shall recruit and place an initial cohort of NC Teacher Corps members no later than the 2012-2013 school year.

PAY FOR EXCELLENCE

SECTION 7A.10.(a) Each local board of education may develop a plan of performance pay for all licensed personnel employed by the local board. Under the performance pay plan, licensed employees should be eligible to receive bonuses or adjustments to base salary for meeting certain performance criteria. Criteria for award of bonuses or adjustments to base salary should include, but are not limited to, the following factors:

- (1) Annual growth in student achievement of students assigned to a teacher's classroom, when applicable.
- (2) Annual growth in student achievement of students assigned to a specific school.
- (3) Assignment of additional academic responsibilities.
- (4) Assignment to a hard-to-staff school.
- (5) Assignment to a hard-to-staff subject area.

Local boards of education who have developed a plan shall submit plans to the State Board of Education no later than March 1, 2013. The State Board of Education shall report on these plans and the achievement-based compensation models developed as part of the federal Race to the Top grant and shall submit the report and all plans to the Fiscal Research Division, the Joint Legislative Commission on Governmental Operations, and the respective Subcommittees on Education Appropriations of the Senate and House of Representatives no later than April 15, 2013. Members of the public may also submit plans for performance pay no later than April 15, 2013, to the Fiscal Research Division, the Joint Legislative Commission on Governmental Operations, and the respective Subcommittees on Education Appropriations of the Senate and House of Representatives.

SECTION 7A.10.(b) This section is effective when it becomes law.

PART VIII. COMMUNITY COLLEGES**CARRYFORWARD FOR EQUIPMENT**

SECTION 8.2.(a) In accordance with G.S. 115D-31, funds appropriated to the Community Colleges System Office for equipment for the 2011-2012 fiscal year shall not revert at the end of the fiscal year but shall be made available to the Community Colleges System Office for equipment for the 2012-2013 fiscal year.

SECTION 8.2.(b) This section becomes effective June 30, 2012.

REPEAL OBSOLETE REPORTS

SECTION 8.3.(a) G.S. 115D-5(o) reads as rewritten:

~~"(o) The General Assembly finds that additional data are needed to determine the adequacy of multicampus and off campus center funds; therefore, multicampus colleges and colleges with off campus centers shall report annually, beginning September 1, 2005, to the Community Colleges System Office on all expenditures by line item of funds used to support their multicampuses and off campus centers. The Community Colleges System Office shall report on these expenditures to the Education Appropriation Subcommittees of the House of Representatives and the Senate, the Office of State Budget and Management, and the Fiscal Research Division by December 1 of each year.~~

All multicampus centers approved by the State Board of Community Colleges shall receive funding under the same formula. The State Board of Community Colleges shall not approve any additional multicampus centers without identified recurring sources of funding."

SECTION 8.3.(b) G.S. 116D-3(c) is repealed.

SECTION 8.3.(c) Section 9.11(e) of S.L. 1999-237 is repealed.

SECTION 8.3.(d) Section 4 of S.L. 2005-198 is repealed.

REPEAL DUPLICATIVE AUDIT REQUIREMENT

SECTION 8.4. G.S. 147-64.6A is repealed.

UPDATE COLLEGE PERFORMANCE MEASURES

SECTION 8.5. G.S. 115D-31.3 reads as rewritten:

"§ 115D-31.3. Institutional performance accountability.

(a) Creation of Accountability Measures and Performance Standards. – The State Board of Community Colleges shall create new accountability measures and performance standards for the Community College System. ~~Survey results shall be used as a performance standard only if the survey is statistically valid.~~ The State Board of Community Colleges shall review annually the accountability measures and performance standards to ensure that they are appropriate for use in recognition of successful institutional performance.

(b) through (d) Repealed by Session Laws 2000-67, s. 9.7, effective July 1, 2000.

(e) Mandatory Performance Standards Measures. – The State Board of Community Colleges shall evaluate each college on the following eight performance ~~standards~~ measures:

- (1) Progress of basic skills students, students.
- (2) Passing rate for licensure and certification examinations, General Educational Development (GED) diploma examinations.
- (3) Performance of students who transfer to a four-year institution, institution.
- (4) Passing Success rates in of developmental courses, students in subsequent college-level English courses.
- (5) Success rates of developmental students in subsequent college-level courses, math courses.
- (5a) Progress of first-year curriculum students.
- (6) ~~The level of satisfaction of students who complete programs and those who do not complete programs,~~
- (7) Curriculum student retention and graduation, and graduation.
- (8) ~~Client satisfaction with customized training.~~
- (9) Passing rate for licensure and certification examinations.

The State Board may also evaluate each college on additional performance ~~standards~~ measures.

(f) Publication of Performance Ratings. – Each college shall publish its performance on the eight ~~standards~~ measures set out in subsection (e) of this section (i) annually in its electronic catalog or on the Internet and (ii) in its printed catalog each time the catalog is reprinted.

The Community Colleges System Office shall publish the performance of all colleges on all eight ~~standards~~ measures.

(g) Recognition for Successful Institutional Performance. – For the purpose of recognition for successful institutional performance, the State Board of Community Colleges shall evaluate each college on the eight performance ~~standards~~ measures. For each of these eight performance ~~standards~~ measures on which a college performs successfully, the college may retain and carry forward into the next fiscal year one-fourth of one percent ($\frac{1}{4}$ of 1%) of its final fiscal year General Fund appropriations. ~~If a college demonstrates significant improvement on a standard that has been in use for three years or less, the college may also carry forward one-fourth of one percent ($\frac{1}{4}$ of 1%) of its final fiscal year General Fund appropriations for that standard.~~

(h) Recognition for Exceptional Institutional Performance. – Funds not allocated to colleges in accordance with subsection (g) of this section shall be used to reward exceptional institutional performance. A college is deemed to have achieved exceptional institutional performance if it succeeds on all eight performance measures. After all State aid budget obligations have been met, the State Board of Community Colleges shall distribute the remainder of these funds ~~equally~~ to colleges that ~~perform successfully on eight performance standards and meet the following criteria:~~ achieve exceptional institutional performance status based on the pro rata share of total full time equivalent (FTE) students served at each college.

- (1) ~~The passing rate on all reported licensure and certification examinations for which the community colleges have authority over who sits for the examination must meet or exceed seventy percent (70%) for first time test takers; and~~

- (2) ~~The percentage of college transfer students with a grade point average of at least 2.0 after two semesters at a four-year institution must equal or exceed the performance of students who began college at that four-year institution.~~

The State Board may withhold the portion of funds for which a college may qualify as an exceptional institution while the college is under investigation by a State or federal agency or if its performance does not meet the standards established by the Southern Association of Colleges and Schools, the State Auditor's Office, or the State Board of Community Colleges. The State Board may release the funds at such time as the investigations are complete and the issues are resolved.

(i) Permissible Uses of Funds. – Funds retained by colleges or distributed to colleges pursuant to this section shall be used for the purchase of equipment, initial program start-up costs including faculty salaries for the first year of a program, and one-time faculty and staff bonuses. These funds shall not be used for continuing salary increases or for other obligations beyond the fiscal year into which they were carried forward. These funds shall be encumbered within 12 months of the fiscal year into which they were carried forward.

(j) Use of funds in low-wealth counties. – Funds retained by colleges or distributed to colleges pursuant to this section may be used to supplement local funding for maintenance of plant if the college does not receive maintenance of plant funds pursuant to G.S. 115D-31.2, and if the county in which the main campus of the community college is located meets all of the following:

- (1) Is designated as a Tier 1 county in accordance with G.S. 143B-437.08.
- (2) Had an unemployment rate of at least two percent (2%) above the State average or greater than seven percent (7%), whichever is higher, in the prior calendar year.
- (3) Is a county whose wealth, as calculated under the formula for distributing supplemental funding for schools in low-wealth counties, is eighty percent (80%) or less of the State average.

Funds may be used for this purpose only after all local funds appropriated for maintenance of plant have been expended."

MODIFY INSTITUTIONAL PERFORMANCE ACCOUNTABILITY FOR ONE YEAR

SECTION 8.6. Effective for the 2011-2012 reporting year, and notwithstanding G.S. 115D-31.3, the State Board of Community Colleges shall not require a college to report its performance on the progress of basic skills students as one of the mandatory performance standards prescribed by G.S. 115D-31.3(e). A college shall not be evaluated on the progress of basic skills students for the purpose of recognizing successful institutional performance or exceptional institutional performance. For each of the remaining seven performance standards on which a college performs successfully, the college may retain and carry forward into the 2013-2014 fiscal year two-sevenths of one percent (2/7 of 1%) of its final fiscal year General Fund appropriations.

GATEWAY TO COLLEGE PILOT AT DURHAM TECHNICAL COMMUNITY COLLEGE

SECTION 8.7.(a) Notwithstanding Section 7.1A of S.L. 2011-145, as amended by Section 13 of S.L. 2011-391, and any other provision of law, the State Board of Education and the State Board of Community Colleges shall approve the Gateway to College program at Durham Technical Community College as a Career and College pathway pilot program. This program concurrently provides high school and college education to high school students who have previously dropped out.

SECTION 8.7.(b) The State Board of Community Colleges shall include curriculum coursework, including developmental course work, associated with this program when computing the budget FTE for Durham Technical Community College in the 2012-2013 fiscal year.

SECTION 8.7.(c) Durham Technical Community College shall report to the Education Appropriation Subcommittees of the House of Representatives and the Senate by March 1, 2013, on student outcomes under the program and on the actual cost of the program, including administrative expenses incurred by Durham Public Schools and Durham Technical Community College.

COMMUNITY COLLEGE TUITION WAIVER

SECTION 8.8. 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. The State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for the following:

- (1) Persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate.
- (2) Courses requested by the following entities that support the organizations' training needs and are on a specialized course list approved by the State Board of Community Colleges:
 - a. Volunteer fire departments.
 - b. Municipal, county, or State fire departments.
 - c. Volunteer EMS or rescue and lifesaving departments.
 - d. Municipal, county, or State EMS or rescue and lifesaving departments.
 - d1. Law enforcement, fire, EMS or rescue and lifesaving entities serving a lake authority that was created by a county board of commissioners prior to July 1, 2012.
 - e. Radio Emergency Associated Communications Teams (REACT) under contract to a county as an emergency response agency.
~~(v)-(vi) municipal county, or State law enforcement officers~~
 - f. Municipal, county, or State law enforcement agencies.
 - g. The Division of Adult Correction of the Department of Public Safety for the training of full-time custodial employees and employees of the Division's Section of Community Corrections of the Division of Adult Correction required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission.
 - h. The Division of Juvenile Justice of the Department of Public Safety for the training of employees required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission.
 - i. The Eastern Band of Cherokee Indians law enforcement, fire, EMS or rescue and lifesaving tribal government departments or programs.
- (3) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.
- (4) Trainees enrolled in courses conducted under the Customized Training Program.
- (5) through (9) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.
- (10) Elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (CPR).

- (11) Up to six hours of credit instruction and one course of noncredit instruction per academic semester for senior citizens age 65 or older who are qualified as legal residents of North Carolina.
- (12) All curriculum courses taken by high school students at community colleges, in accordance with G.S. 115D-20(4) and this section.
- (13) Human resources development courses for any individual who (i) is unemployed; (ii) has received notification of a pending layoff; (iii) is working and is eligible for the Federal Earned Income Tax Credit (FEITC); or (iv) is working and earning wages at or below two hundred percent (200%) of the federal poverty guidelines.
- (14) Repealed by Session Laws 2011-145, s. 8.12(a), effective July 1, 2011.

The State Board of Community Colleges shall not waive tuition and registration fees for other individuals."

INCREASE MAXIMUM PARKING FINE

SECTION 8.9. G.S. 115D-21 reads as rewritten:

"§ 115D-21. Traffic regulations; fines and penalties.

(a) All of the provisions of Chapter 20 of the General Statutes relating to the use of highways of the State of North Carolina and the operation of motor vehicles thereon shall apply to the streets, roads, alleys and driveways on the campuses of all institutions in the North Carolina Community College System. Any person violating any of the provisions of Chapter 20 of the General Statutes in or on the streets, roads, alleys and driveways on the campuses of institutions in the North Carolina Community College System shall, upon conviction thereof, be punished as prescribed in this section and as provided by Chapter 20 of the General Statutes relating to motor vehicles. Nothing contained in this section shall be construed as in any way interfering with the ownership and control of the streets, roads, alleys and driveways on the campuses of institutions in the system as is now vested by law in the trustees of each individual institution in the North Carolina Community College System.

(b) The trustees are authorized and empowered to make additional rules and regulations and to adopt additional ordinances with respect to the use of the streets, roads, alleys and driveways and to establish parking areas on or off the campuses not inconsistent with the provisions of Chapter 20 of the General Statutes of North Carolina. Upon investigation, the trustees may determine and fix speed limits on streets, roads, alleys, and driveways subject to such rules, regulations, and ordinances, lower than those provided in G.S. 20-141. The trustees may make reasonable provisions for the towing or removal of unattended vehicles found to be in violation of rules, regulations and ordinances. All rules, regulations and ordinances adopted pursuant to the authority of this section shall be recorded in the proceedings of the trustees; shall be printed; and copies of such rules, regulations and ordinances shall be filed in the office of the Secretary of State of North Carolina. Violation of any such rules, regulations, or ordinances, is an infraction punishable by a penalty of not more than one hundred dollars (\$100.00).

Regardless of whether an institution does its own removal and disposal of motor vehicles or contracts with another person to do so, the institution shall provide a hearing procedure for the owner. For purposes of this subsection, the definitions in G.S. 20-219.9 apply.

- (1) If the institution operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provisions of Article 7A, Chapter 20, apply.
- (2) If the institution operates in such a way that it is responsible for collecting towing fees, it shall:
 - a. Provide by contract or ordinance for a schedule of reasonable towing fees,
 - b. Provide a procedure for a prompt fair hearing to contest the towing,
 - c. Provide for an appeal to district court from that hearing,

- d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and
- e. If the institution chooses to enforce its authority by sale of the vehicle, provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the institution may destroy it.

(c) The trustees may by rules, regulations, or ordinances provide for a system of registration of all motor vehicles where the owner or operator does park on the campus or keeps said vehicle on the campus. The trustees shall cause to be posted at appropriate places on campus notice to the public of applicable parking and traffic rules, regulations, and ordinances governing the campus over which it has jurisdiction. The trustees may by rules, regulations, or ordinances establish or cause to have established a system of citations that may be issued to owners or operators of motor vehicles who violate established rules, regulations, or ordinances. The trustees shall provide for the administration of said system of citations; establish or cause to be established a system of fines to be levied for the violation of established rules, regulations and ordinances; and enforce or cause to be enforced the collection of said fines. The fine for each offense shall not exceed ~~five dollars (\$5.00), which funds shall be retained in the institution and expended in the discretion of the trustees.~~ twenty-five dollars (\$25.00). The trustees shall be empowered to exercise the right to prohibit repeated violators of such rules, regulations, or ordinances from parking on the campus.

(d) The clear proceeds of all civil penalties collected pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

POWERS OF THE STATE BOARD OF PROPRIETARY SCHOOLS

SECTION 8.9A.(a) Article 8 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ 115D-89.4. Powers of the State Board of Proprietary Schools.

(a) In order to carry out the purposes of this Article, the State Board of Proprietary Schools, subject to other provisions of this Article, shall:

- (1) Have the powers of a body corporate, including the power to make contracts and to alter the same as may be deemed expedient;
- (2) Be authorized and empowered to rent and lease such property, real or personal, as the State Board of Proprietary Schools may deem proper to carry out the purposes and provisions of this Article, all or any of them;
- (3) Establish an office for the transaction of its business at such place or places as, in the opinion of the State Board of Proprietary Schools, shall be advisable or necessary in carrying out the purposes of this Article;
- (4) Be authorized and empowered to pay from the Commercial Education Fund all necessary costs and expenses involved in and incident to the formation, organization, and administration of the State Board of Proprietary Schools and all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Article; and
- (5) Be authorized and empowered to do any and all other acts and things in this Article authorized or required to be done, whether or not included in the general powers listed in this section.

(b) The purchase of goods and services by the State Board of Proprietary Schools shall be exempt from the requirements of Article 3 of Chapter 143 of the General Statutes."

SECTION 8.9A.(b) G.S. 115D-89.2 reads as rewritten:

"§ 115D-89.2. Office of Proprietary Schools; staff.

The Office of Proprietary Schools shall be the principal administrative unit under the direction of the State Board of Proprietary Schools. Unless otherwise specified in

G.S. 115D-89.3, the State Board of Proprietary Schools has authority to recommend for adoption and to administer all policies, regulations, and standards which it deems necessary for the operation of the Office of Proprietary Schools.

The State Board of Proprietary Schools shall hire an executive director of the Office of Proprietary Schools, who shall serve as chief administrative officer of the Office of Proprietary Schools, or contract with an outside consultant to serve as the executive director. The compensation of this position shall be fixed by the State Board of Proprietary Schools from funds provided by fees deposited in the Commercial Education Fund.

The State Board of Proprietary Schools may hire other employees as it deems necessary to carry out the provisions of this Article. The compensation of the staff members hired by the State Board of Proprietary Schools shall be fixed by the State Board of Proprietary Schools upon recommendation of the Executive Director of the Office of Proprietary Schools. The Executive Director shall provide an annual projected operating budget to the State Board of Proprietary Schools at a time each year designated by the State Board of Proprietary Schools. The budget will be approved by the State Board of Proprietary Schools from funds provided by fees deposited in the Commercial Education Fund."

SECTION 8.9A.(c) G.S. 126-5(c2) is amended by adding a new subdivision to read:

"(c2) The provisions of this Chapter shall not apply to:

- (1) Public school superintendents, principals, teachers, and other public school employees.
- (2) Recodified as G.S. 126-5(c)(4) by Session Laws 1985 (Regular Session, 1986), c. 1014, s. 41.
- (3) Employees of community colleges whose salaries are fixed in accordance with the provisions of G.S. 115D-5 and G.S. 115D-20, and employees of the Community Colleges System Office whose salaries are fixed by the State Board of Community Colleges in accordance with the provisions of G.S. 115D-3.
- (4) Employees of the Office of Proprietary Schools whose salaries are fixed by the State Board of Proprietary Schools in accordance with the provisions of G.S. 115D-89.2."

GASTON MULTICAMPUS

SECTION 8.10. Notwithstanding G.S. 115D-5(o), the State Board of Community Colleges shall approve the Kimbrell Campus multicampus site of Gaston College.

NORTH CAROLINA BACK-TO-WORK PROGRAM

SECTION 8.10A. Of the funds appropriated in this act to the Community Colleges System Office, the sum of five million dollars (\$5,000,000) shall be used for the North Carolina Back-to-Work Program, a retraining program to prepare North Carolinians facing long-term unemployment for new careers. The program shall provide students with job training and retraining; employability skills, including a Career Readiness Certificate; and third-party, industry-recognized credentials. The Community Colleges System Office and the Department of Commerce shall jointly recommend to the State Board of Community Colleges up to 10 colleges to which to allocate available funds based on (i) the number of long-term unemployed individuals in the college's service area, (ii) the percentage of long-term unemployed individuals in the college's service area, (iii) the availability of jobs for which the North Carolina Back-to-Work Program could prepare students, and (iv) the college's demonstrated willingness and ability to successfully implement the program. The money may only be used for the following activities: student instruction, student support and coaching, and targeted financial assistance for students, including assistance with tuition, registration fees, books, and certification costs.

FINANCIAL AID PROGRAM ADMINISTRATIVE COSTS

SECTION 8.11.(a) Subsection (a) of Section 9.8 of S.L. 2011-145, as amended by Section 2(b) of S.L. 2011-340, reads as rewritten:

"**SECTION 9.8.(a)** There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of forty-nine million six hundred twenty-two thousand two hundred forty-two dollars (\$49,622,242) for the 2011-2012 fiscal year and the sum of ~~thirty-two million one hundred twenty-two thousand two hundred forty-two dollars (\$32,122,242)~~ thirty-seven million two hundred eighty-seven thousand two hundred forty-two dollars (\$37,287,242) for the 2012-2013 fiscal year to be used for The University of North Carolina Need-Based Financial Aid Program."

SECTION 8.11.(b) Subsection (c) of Section 9.8 of S.L. 2011-145 reads as rewritten:

"**SECTION 9.8.(c)** There is appropriated from the Escheat Fund income to the State Board of Community Colleges the sum of sixteen million five hundred thousand dollars (\$16,500,000) for the 2011-2012 fiscal year and the sum of ~~sixteen million five hundred thousand dollars (\$16,500,000)~~ sixteen million three hundred thirty-five thousand dollars (\$16,335,000) for the 2012-2013 fiscal year to be used for community college grants."

SECTION 8.11.(c) G.S. 115D-40.1(c) reads as rewritten:

"(c) Administration of Program. – The State Board shall adopt rules and policies for the disbursement of the financial assistance provided in subsections (a) and (b) of this section. Degree, diploma, and certificate students must complete a Free Application for Federal Student Aid (FAFSA) to be eligible for financial assistance. The State Board may contract with the State Education Assistance Authority for administration of these financial assistance funds. These funds shall not revert at the end of each fiscal year but shall remain available until expended for need-based financial assistance. The interest earned on the funds provided in subsections (a) and (b) of this section may be used to support the costs of administering the Community College Grant Program. If the interest earnings are not adequate to support the administrative costs, up to one percent (1%) of funds provided in subsection (a) of this section may be used to support the costs of administering the Community College Grant Program."

PART IX. UNIVERSITIES**STUDY TUITION COST FOR VETERANS**

SECTION 9.1. The Joint Legislative Education Oversight Committee shall study the tuition costs for veterans who enroll in the State's community colleges or in any constituent institution of The University of North Carolina. As part of the study, the Committee shall consider the current criteria for determining whether a veteran qualifies for the resident tuition rate and how those criteria affect veterans who qualify for post-9/11 GI Bill benefits, as well as other veterans. The Committee shall also consider the potential educational costs to the State of veterans who attend any of the State's public institutions of higher education at the resident tuition rate and ways to limit those costs. The Committee may consider any other issues relevant to the study.

STUDENT FINANCIAL AID/TECHNICAL CORRECTIONS

SECTION 9.2.(a) G.S. 116-209.45(b)(1) reads as rewritten:

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

- (1) Eligible Institution. – Notwithstanding G.S. 116-201(b)(5) and G.S. 116-201(b)(6) and for purposes of this section only, an institution of higher education that is any of the following:
 - a. A postsecondary constituent institution of The University of North Carolina as defined in G.S. 116-2(4).
 - b. A community college as defined in G.S. 115D-2(2).

- e. ~~A nonprofit postsecondary institution as defined in G.S. 116-22(1) or G.S. 116-43.5.~~
- d. ~~A postsecondary institution owned or operated by a hospital authority as defined in G.S. 131E-16(14).~~
- e. ~~A school of nursing affiliated with a nonprofit postsecondary institution as defined in G.S. 116-22(1).~~
- f. Another public or nonprofit postsecondary institution offering a program of study not otherwise available in North Carolina that is deemed to be eligible under rules promulgated by the Authority.
- g. An eligible private postsecondary institution as defined in G.S. 116-280(3)."

SECTION 9.2.(b) Section 9.18(d) of S.L. 2011-145 reads as rewritten:

"**SECTION 9.18.(d)** The State Education Assistance Authority shall report no later than ~~June 1, 2013,~~September 1, 2013, to the Joint Legislative Education Oversight Committee regarding the implementation of this section. The report shall contain, for the 2012-2013 academic year, the amount of scholarship and grant money disbursed, the number of students eligible for the funds, the number of eligible students receiving the funds, and a breakdown of the eligible private postsecondary institutions that received the funds."

SECTION 9.2.(c) Section 9.18(i) of S.L. 2011-145 reads as rewritten:

"**SECTION 9.18.(i)** Subsections (a), (d), and (i) of this section become effective July 1, 2011. Article 34 of Chapter 116 of the General Statutes, as enacted by subsection (a) of this section, applies to the 2012-2013 academic year and each subsequent academic year, except that the rule-making authority for the State Education Assistance Authority under G.S. 116-283(a) becomes effective immediately on July 1, 2011. Subsections (b), (c), (e), (f), (g), and (h) of this section become effective July 1, ~~2012-2012,~~ except that the State Education Assistance Authority may continue to make payments pursuant to G.S. 116-43.5 until August 1, 2012, to students who attended certain private institutions of higher education in the 2011-2012 academic year."

SECTION 9.2.(d) Of the funds appropriated by this act to the Board of Governors for the 2012-2013 fiscal year and allocated to the State Education Assistance Authority for the North Carolina Need-Based Scholarships for Students Attending Private Institutions of Higher Education pursuant to Article 34 of Chapter 116 of the General Statutes, the State Education Assistance Authority may use up to two hundred eighty-one thousand five hundred seventeen dollars (\$281,517) to make the payments authorized by subsection (c) of this section to students who attended certain private institutions of higher education in the 2011-2012 academic year.

UNC/REPEAL OBSOLETE OR REDUNDANT REPORTING REQUIREMENTS

SECTION 9.4.(a) G.S. 116-11(10a) reads as rewritten:

"(10a) The Board of Governors, the State Board of Community Colleges, and the State Board of Education, in consultation with nonprofit postsecondary educational institutions shall plan a system to provide an exchange of information among the public schools and institutions of higher education to be implemented no later than June 30, 1995. As used in this section, "institutions of higher education" shall mean (i) public higher education institutions defined in G.S. 116-143.1(a)(3), and (ii) those nonprofit postsecondary educational institutions as described in G.S. 116-280 that choose to participate in the information exchange. The information shall include:

- a. The number of high school graduates who apply to, are admitted to, and enroll in institutions of higher education;
- b. College performance of high school graduates for the year immediately following high school graduation including each student's: need for remedial coursework at the institution of higher

education that the student attends; performance in standard freshmen courses; and continued enrollment in a subsequent year in the same or another institution of higher education in the State;

- c. The progress of students from one institution of higher education to another; and
- d. Consistent and uniform public school course information including course code, name, and description.

The Department of Public Instruction shall generate and the local school administrative units shall use standardized transcripts in an automated format for applicants to higher education institutions. The standardized transcript shall include grade point average, class rank, end-of-course test scores, and uniform course information including course code, name, units earned toward graduation, and credits earned for admission from an institution of higher education. The grade point average and class rank shall be calculated by a standard method to be devised by the institutions of higher education. ~~The Board of Governors shall coordinate a joint progress report on the implementation of the system to provide an exchange of information among the public and independent colleges and universities, the community colleges, and the public schools. The report shall be made to the Joint Legislative Education Oversight Committee no later than February 15, 1993, and annually thereafter.~~"

SECTION 9.4.(b) G.S. 116-11(12a) reads as rewritten:

"(12a) The Board of Governors of The University of North Carolina shall implement, administer, and revise programs for meaningful professional development for professional public school employees based upon the evaluations and recommendations made by the State Board of Education under G.S. 115C-12(26). The programs shall be aligned with State education goals and directed toward improving student academic achievement. ~~The Board of Governors shall submit to the State Board of Education an annual report evaluating the professional development programs administered by the Board of Governors.~~"

SECTION 9.4.(c) G.S. 116D-3(a)(1) is repealed.

SECTION 9.4.(d) Section 7 of S.L. 1989-936, as amended by S.L. 1991-346, reads as rewritten:

"Sec. 7. The Board of Governors of The University of North Carolina shall adopt standards to create and enhance an organized program of public service and technical assistance to the public schools. This program shall:

- (1) Provide systematic access for public schools to consultation and advice available from members of the faculties of the constituent institutions;
- (2) Facilitate and encourage research in the public schools and the application of the results of this research;
- (3) Link the education faculties of the constituent institutions with public school teachers and administrators through public service requirements for the education faculties; and
- (4) Create partnerships among all constituent institutions, their schools or departments of education, and the maximum number of public schools that could benefit from these partnerships.

~~The Board of Governors shall report on an annual basis to the Joint Legislative Commission on Governmental Operations on its progress in implementing the provisions of this section."~~

SECTION 9.4.(e) Section 1.1 of S.L. 2000-3 reads as rewritten:

"Section 1.1. The General Assembly finds that although The University of North Carolina is one of the State's most valuable assets, the current facilities of the University have been allowed to deteriorate due to decades of neglect and have unfortunately fallen into a state of

disrepair because of inadequate attention to maintenance. It is the intent of the General Assembly to reverse this trend and to provide a mechanism to assure that the University's capital assets are adequately maintained. The General Assembly commits to responsible stewardship of these assets to protect their value over the years, as follows:

- (1) The Board of Governors of The University of North Carolina shall require each constituent and affiliated institution to monitor the condition of its facilities and their needs or repair and renovation, and to assure that all necessary maintenance is carried out within funds available.
- (2) ~~The Board of Governors shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of the University's capital facilities, the repair, renovation, and maintenance projects being undertaken, and all needs for additional funding to maintain the facilities.~~
- (3) It is the intent of the General Assembly to assure that adequate oversight, funding, and accountability are continually provided so that the capital facilities of the University are properly maintained to preserve the level of excellence the citizens of this State deserve. To this end, the Joint Legislative Education Oversight Committee shall report to the General Assembly annually its recommendations for legislative changes to implement this policy."

SECTION 9.4.(f) Section 6 of S.L. 2000-3 reads as rewritten:

"Section 6. Repair and Renovation Reports. – ~~The Board of Governors of The University of North Carolina shall report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee on the condition of all of the University's capital facilities, including a status report on all repair, renovation, and maintenance projects being undertaken and an assessment of needs for additional funding to repair, renovate, and maintain the facilities.~~

The Board of Governors of The University of North Carolina shall also study the repairs and renovations formula currently utilized with respect to funding for the Repairs and Renovations Reserve Account to determine whether it adequately takes into account all of the appropriate maintenance needs of each constituent and affiliated institution, and shall recommend to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee any changes necessary to improve the formula. The Board shall make recommendations on the scope and adequacy of the methodology used to calculate the funding for the repairs and renovations reserve as specified in G.S. 143-15.2."

SECTION 9.4.(g) Section 13 of S.L. 2001-496 is repealed.

NC GRADUATES IN PRIMARY CARE CENTERS/CHANGE REPORT DATE

SECTION 9.5. G.S. 143-613(d) reads as rewritten:

"(d) The progress of the private and State-operated medical schools and State-operated health professional schools towards increasing the number and proportion of graduates entering primary care shall be monitored annually by the Board of Governors of The University of North Carolina. Monitoring data shall include (i) the entry of State-supported graduates into primary care residencies and clinical training programs, and (ii) the specialty practices by a physician and each midlevel provider who were State-supported graduates as of a date five years after graduation. The Board of Governors shall certify data on graduates, their residencies and clinical training programs, and subsequent careers by ~~October 1~~ November 15 of each calendar year, beginning in ~~October of 1995~~, November of 2012, to the Fiscal Research Division of the Legislative Services Office and to the Joint Legislative Education Oversight Committee."

PERMANENT TRANSFER OF FUNDING FOR MILITARY ONE-STOP & BRAC OUTREACH

SECTION 9.7. The Military One-Stop & BRAC Outreach program previously vested in Fayetteville State University is transferred to The University of North Carolina General Administration with all of the elements of a Type I transfer as defined in G.S. 143A-6. The program transfer shall include the sum of two hundred fifty-one thousand five hundred dollars (\$251,500).

STUDY UNC TUITION SURCHARGE

SECTION 9.8. The Fiscal Research Division, in cooperation with The University of North Carolina, shall study the tuition surcharge mandated by G.S. 116-143.7. As part of the study, the Fiscal Research Division shall examine the surcharge's effect, if any, on the number of credit hours taken by students at constituent institutions of The University of North Carolina and the resulting effect on the timely achievement of graduation; the number of students subject to the surcharge in each of the last five academic years; and the revenue generated by the surcharge. In its study, the Fiscal Research Division shall also examine the methods that The University of North Carolina employs to provide notice to a student that the student is approaching the credit hour limit and will be charged the tuition surcharge if the student exceeds that limit.

The Fiscal Research Division shall report its findings and recommendations, including any legislative recommendations, by January 1, 2013, to the Joint Legislative Education Oversight Committee and to the Education Appropriation Subcommittees of the House of Representatives and the Senate.

UNC STUDENT FEES/INSTITUTIONAL TRUST FUNDS

SECTION 9.9. G.S. 116-36.1(g) is amended by adding a new subdivision to read:

"(12) Any other moneys collected by an institution as student fees previously approved by the Board of Governors."

UNC ACQUISITION AND DISPOSITION OF REAL PROPERTY

SECTION 9.10.(a) G.S. 116-31.12 reads as rewritten:

"§ **116-31.12. Acquisition and disposition of real property by lease.**

Notwithstanding G.S. 143-341(4), and in addition to the powers granted in G.S. 116-198.34(5), the Board of Governors may authorize the constituent institutions and the General Administration to acquire or dispose of real property by lease if the lease is for a term of not more than 10 years. The Board of Governors shall establish a policy for acquiring and disposing of an interest in real property for the use of The University of North Carolina and its constituent institutions by lease. This policy may delegate authorization of the acquisition or disposition of real property by lease to the boards of trustees of the constituent institutions or to the President of The University of North Carolina. The Board of Governors shall submit all initial policies adopted pursuant to this section to the State Property Office for review prior to adoption by the Board. Any subsequent changes to these policies adopted by the Board of Governors shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the President of The University of North Carolina. After the acquisition or disposition of an interest in real property by lease, The University of North Carolina shall promptly file a report concerning the acquisition or disposition to the Secretary of Administration. Acquisitions and dispositions of an interest in real property by lease pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or to the provisions of ~~Article 6~~ Article 6 or 7 of Chapter 146 of the General Statutes."

SECTION 9.10.(b) G.S. 116-198.34(5) reads as rewritten:

"(5) To acquire, hold, lease, and dispose of real and personal property in the exercise of its powers and the performance of its duties hereunder and to

lease all or any part of any project or projects and any existing facilities upon such terms and conditions as the Board determines, subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes.

Notwithstanding G.S. 143-341 and Chapter 146 of the General Statutes, a disposition by easement, lease, or rental agreement of space in any building on the Centennial Campus, on the Horace Williams Campus, ~~or on a Millennial Campus-Campus,~~ or on a Kannapolis Research Campus made for a period of 10 years or less shall not require the approval of the Governor and the Council of State. All other acquisitions and dispositions made under this subdivision for a period in excess of 10 years are subject to the provisions of G.S. 143-341 and Chapter 146 of the General Statutes."

SECTION 9.10.(c) The Board of Governors of The University of North Carolina shall report to the Joint Legislative Commission on Governmental Operations by September 1, 2014, regarding the following:

- (1) How often the constituent institutions and General Administration used the authority to dispose of real property pursuant to G.S. 116-31.12 or G.S. 116-198.34(5).
- (2) The types of real properties that were disposed of by lease under that statutory authority.
- (3) An analysis and evaluation of what effect, if any, the authorization for the disposition of real property by lease has made with regard to the overall efficiency of real estate management by the constituent institutions and General Administration.

SECTION 9.10.(d) Subsections (a) and (b) of this section expire on June 30, 2015.

UNC PARTNERSHIP FOR NATIONAL SECURITY

SECTION 9.13. The University of North Carolina may use funds available to it for the 2012-2013 fiscal year to continue and expand its work on the UNC Partnership for National Security to benefit the United States Marine Corps at Camp Lejeune and to build further its faculty and student capabilities in developing technologies for the special operations community. The Partnership works to connect the resources of The University of North Carolina system to the needs of our military, its service members, veterans, their families, and the defense industry in North Carolina. Partnership activities include all of the following: degree program development for service members and the defense industry; short courses, training, and subject matter expertise exchange; science and technology product development for the battle space; and scholar support, such as internships for The University of North Carolina system students, faculty research, and senior service college fellows. The Partnership's work has included the expansion of a "UNC at Fort Bragg" program that was previously in place for the Army.

UNC/FUNDS FOR CAMPUSES SPECIALIZING IN THE ARTS AND SCIENCES

SECTION 9.14.(a) Of funds appropriated to the Board of Governors of The University of North Carolina in Section 2.1 of this act to restore the management flexibility reduction, the sum of three million dollars (\$3,000,000) shall be allocated to the campuses specializing in the arts and sciences listed below as follows:

- (1) \$1,000,000 for the University of North Carolina School of the Arts.
- (2) \$1,000,000 for the University of North Carolina at Asheville.
- (3) \$1,000,000 for the North Carolina School of Science and Mathematics.

The Board of Governors shall allocate the remainder of these funds in accordance with Section 9.6 of S.L. 2011-145.

SECTION 9.14.(b) The Board of Governors shall not reduce State funds to these three campuses for the 2012-2013 fiscal year as a result of the allocations directed in subsection (a) of this section.

LIABILITY INSURANCE

SECTION 9.15. G.S. 116-11 is amended by adding a new subdivision to read:

"(13a) The Board of Governors may authorize the President to purchase commercial insurance of any kind to cover all risks or potential liability of the University, the Board of Governors, boards of trustees, other administrative or oversight boards, the President, the University benefit plan administrators, and employees of the University relating to the management, direction, and administration of University employee benefit plans, including the risks and potential liability related to benefit plan investments managed by the University.

Members of the Board of Governors, boards of trustees, other administrative and oversight boards, and employees of the University shall be considered State employees for purposes of Articles 31 and 31A of Chapter 143 of the General Statutes. To the extent that the President purchases commercial liability insurance coverage in excess of one hundred fifty thousand dollars (\$150,000) per claim for liability arising under Article 31 or 31A of Chapter 143 of the General Statutes, the provisions of G.S. 143-299.4 shall not apply. To the extent that the President purchases commercial insurance coverage for liability arising under Article 31 or 31A of Chapter 143 of the General Statutes, the provisions of G.S. 143-300.6(a) shall not apply.

The purchase of insurance by the President under this section shall not be construed to waive sovereign immunity or any other defense available to the University, the Board of Governors, boards of trustees, other administrative and oversight boards, the President, University benefit plan administrators, and employees of the University in an action or contested matter in any court, agency, or tribunal. The purchase of insurance by the President shall not be construed to alter or expand the limitations on claims or payments established in G.S. 143-299.2 or limit the right of the University, the Board of Governors, boards of trustees, other administrative or oversight boards, the President, University benefit plan administrators, and employees of the University to defense by the State as provided by G.S. 143-300.3."

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES**NC PRE-K**

SECTION 10.1.(a) The Division of Child Development and Early Education shall require the NC Pre-K contractor to issue multiple-year contracts for licensed private child care centers providing NC Pre-K classrooms.

SECTION 10.1.(b) The Division of Child Development and Early Education (Division) shall create a pilot program that provides funding for NC Pre-K classrooms on a per classroom basis. The pilot program shall include three different NC Pre-K contractual regions that are geographically diverse. The local NC Pre-K administrator shall contract with the provider for operation of a classroom established pursuant to the pilot program. The Division shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations/Base Budget Committee on Health and Human Services, and the Fiscal Research Division on the pilot program no later than January 31, 2013. The report shall include the following:

- (1) The number of students served.
- (2) The amount of funds paid for each classroom.
- (3) The amount of funds paid per student.
- (4) The attendance information on students in the pilot program as compared to those students in a classroom having a traditional funding structure.

- (5) Information on the number of students and students' families using the Subsidized Early Education for Kids (SEEK) system.
- (6) A cost comparison of the classroom pilots to the average cost per student through the per student funding methodology.

SECTION 10.1.(c) The Division of Child Development and Early Education shall continue the implementation of the NC Pre-K program. The NC Pre-K program shall serve children who reach the age of four on or before August 31 of that school year and who meet eligibility criteria.

SECTION 10.1.(c1) G.S. 110-91(2) reads as rewritten:

- "(2) Health-Related Activities. – ~~The Commission shall adopt rules for child care facilities to ensure that all children receive nutritious food and beverages according to their developmental needs. The Commission shall consult with the Division of Child Development of the Department of Health and Human Services to develop nutrition standards to provide for requirements appropriate for children of different ages. In developing nutrition standards, the Commission shall consider the following recommendations:~~
- a. ~~Limiting or prohibiting the serving of sweetened beverages, other than 100% fruit juice, to children of any age.~~
 - b. ~~Limiting or prohibiting the serving of whole milk to children two years of age or older or flavored milk to children of any age.~~
 - e. ~~Limiting or prohibiting the serving of more than six ounces of juice per day to children of any age.~~
 - d. ~~Limiting or prohibiting the serving of juice from a bottle.~~
 - e. ~~Creating an exception from the rules for parents of children who have medical needs, special diets, or food allergies.~~
 - f. ~~Creating an exception from the rules to allow a parent or guardian, or to allow the center upon the request of a parent or guardian, to provide to a child food and beverages that may not meet the nutrition standards.~~
 - g. Nutrition standards. – The Commission shall adopt rules for child care facilities to ensure that food and beverages provided by a child care facility are nutritious and align with children's developmental needs. The Commission shall consult with the Division of Child Development and Early Education of the Department of Health and Human Services to develop nutrition standards to provide for requirements appropriate for children of different ages. In developing nutrition standards, the Commission shall consider the following recommendations:
 - 1. Limiting or prohibiting the serving of sweetened beverages, other than one hundred percent (100%) fruit juice to children of any age.
 - 2. Limiting or prohibiting the serving of whole milk to children two years of age or older or flavored milk to children of any age.
 - 3. Limiting or prohibiting the serving of more than six ounces of juice per day to children of any age.
 - 4. Limiting or prohibiting the serving of juice from a bottle.
 - h. Parental exceptions. –
 - 1. Parents or guardians of a child enrolled in a child care facility may (i) provide food and beverages to their child that may not meet the nutrition standards adopted by the Commission and (ii) opt out of any supplemental food program provided by the

child care facility. The child care facility shall not provide food or beverages to a child whose parent or guardian has opted out of any supplemental food program provided by the child care facility and whose parent or guardian is providing food and beverages for the child.

2. The Commission, the Division of Child Development and Early Education of the Department of Health and Human Services, or any State agency or contracting entity with a State agency shall not evaluate the nutritional value or adequacy of the components of food and beverages provided by a parent or guardian to his or her child enrolled in a child care facility as an indicator of environmental quality ratings.

i. Rest time. – Each child care facility shall have a rest period for each child in care after lunch or at some other appropriate time and arrange for each child in care to be out-of-doors each day if weather conditions permit."

SECTION 10.1.(d) Other than developmental disabilities or other chronic health issues, the Division of Child Development and Early Education shall not consider the health of a child as a factor in determining eligibility for participation in the NC Pre-K program.

SECTION 10.1.(e) All entities operating NC Pre-K classrooms shall adhere to all of the policies prescribed by the Division of Child Development and Early Education regarding programmatic standards and classroom requirements.

SECTION 10.1.(f) The Division of Child Development and Early Education shall establish a standard decision-making process to be used by local NC Pre-K committees in awarding NC Pre-K classroom slots and student selection.

SECTION 10.1.(g) The Division of Child Development and Early Education shall submit an annual report no later than March 15 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Office of State Budget and Management, and the Fiscal Research Division. The report shall include the following:

- (1) The number of children participating in the NC Pre-K program.
- (2) The number of children participating in the NC Pre-K program who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.
- (3) The expected NC Pre-K expenditures for the programs and the source of the local contributions.
- (4) The results of an annual evaluation of the NC Pre-K program.

REVISE CHILD CARE SUBSIDY RATES PROVISION

SECTION 10.2. Section 10.1 of S.L. 2011-145 is amended by adding the following new subsection to read:

"SECTION 10.1.(g1) The Department of Health and Human Services, Division of Child Development and Early Education, shall require all county departments of social services to include on any forms used to determine eligibility for child care subsidy whether the family waiting for subsidy is receiving assistance through the NC Pre-K program or Head Start."

CHILD CARE ALLOCATION FORMULA/DIRECTION

SECTION 10.2A. Section 10.2(a) of S.L. 2011-145 is amended by adding the following new subdivisions to read:

"**SECTION 10.2.(a)** The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- (1) Funds shall be allocated to a county based upon the projected cost of serving children under age 11 in families with all parents working who earn less than seventy-five percent (75%) of the State median income.
- (2) No county's allocation shall be less than ninety percent (90%) of its State fiscal year 2001-2002 initial child care subsidy allocation.
- (3) For fiscal year 2012-2013, the Division of Child Development and Early Education shall base the formula identified in subdivision (1) of this subsection on the same data source used for the 2011-2012 fiscal year.
- (4) The Department of Health and Human Services shall allocate to counties all State funds appropriated for child care subsidy and shall not withhold funds during the 2012-2013 fiscal year."

**EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES
ENHANCEMENTS/SALARY SCHEDULE/MATCH REQUIREMENT
ADJUSTMENTS**

SECTION 10.3.(a) Section 10.5(c) of S.L. 2011-145 is repealed.

SECTION 10.3.(b) Section 10.5 of S.L. 2011-145 is amended by adding the following new subsection to read:

"**SECTION 10.5.(c1)** The North Carolina Partnership for Children, Inc., shall develop and implement a salary schedule for the Executive Director of the North Carolina Partnership for Children, Inc., and the directors of local partnerships. The salary schedule shall set the maximum amount of State funds that may be used for the salary of the Executive Director of the North Carolina Partnership for Children, Inc., and the directors of the local partnerships. In establishing a salary schedule, the North Carolina Partnership for Children, Inc., shall base the schedule on the following criteria:

- (1) The population of the area serviced by a local partnership.
- (2) The amount of State funds administered.
- (3) The amount of total funds administered.
- (4) The professional experience of the individual to be compensated.
- (5) Any other relevant factors pertaining to salary, as determined by the North Carolina Partnership for Children, Inc.

The salary schedule shall be used only to determine the maximum amount of State funds that may be used for compensation. Nothing in this subsection shall be construed to prohibit a local partnership from using non-State funds to supplement an individual's salary in excess of the amount set by the salary schedule established under this subsection."

SECTION 10.3.(c) Section 10.5(e) of S.L. 2011-145, as amended by Section 21A of S.L. 2011-391, reads as rewritten:

"SECTION 10.5.(e) The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match one hundred percent (100%) of the total amount budgeted for the program in each fiscal year of the biennium. Of the funds the North Carolina Partnership for Children, Inc., and the local partnerships are required to match, contributions of cash shall equal to at least ~~seven percent (7%)~~ ten percent (10%) and in-kind donated resources equal to no more than three percent (3%) for a total match requirement of ~~ten percent (10%)~~ thirteen percent (13%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind

contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

- (1) Be verifiable from the contractor's records.
- (2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.
- (3) Not include expenses funded by State funds.
- (4) Be supplemental to and not supplant preexisting resources for related program activities.
- (5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.
- (6) Be otherwise allowable under federal or State law.
- (7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.
- (8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a ~~ten percent (10%)~~ thirteen percent (13%) match by June 30 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly."

SECTION 10.3.(d) To the extent possible, the North Carolina Partnership for Children, Inc., shall not reduce subsidy expenditures for the 2012-2013 fiscal year.

"READ NC" EARLY LITERACY INITIATIVE/DEVELOPMENT OFFICERS/ASSISTANCE TO RURAL PARTNERSHIPS

SECTION 10.4.(a) Of the funds appropriated to the Department of Health and Human Services, Division of Child Development and Early Education, for the North Carolina Partnership for Children, Inc., the sum of three million five hundred thousand dollars (\$3,500,000) for the 2012-2013 fiscal year shall be used by the North Carolina Partnership for Children, Inc., to develop and administer an early literacy initiative pilot program, to be known as "Read NC," hire four North Carolina Partnership for Children, Inc., development officers, and provide additional funds for rural partnerships; provided, however, the Department shall not expend the funds appropriated in this section for the 2012-2013 fiscal year until January 1, 2013, pending a determination by the Office of State Budget and Management that there is adequate funding for the Medicaid budget for the 2012-2013 fiscal year, as provided in Section 10.9G of this act. "Read NC" will focus on increasing the early literacy skills of children who are most at risk for reading below grade level. The pilot program shall be distributed geographically to ensure adequate representation of the diverse areas of the State.

SECTION 10.4.(b) The focus of the pilot program will be to actively engage parents, child care teachers, and communities to help young children build a firm foundation

for language acquisition and literacy skills. To that end, the pilot program shall do the following:

- (1) Educate parents in essential early literacy practices.
- (2) Increase the quality of early literacy programming in child care.
- (3) Increase early literacy opportunities for young children and families in community settings by incorporating the following programs:
 - a. "Reach Out and Read," a program that supports doctors in their efforts to "prescribe" reading to young children and families during well-child visits through early literacy guidance and book sharing, free books for children to keep, and literacy-rich waiting rooms.
 - b. "Raising a Reader" (RAR), a program that rotates bright red bags filled with award-winning books into children's homes on a weekly basis, exposing children on average to over 100 books per rotation cycle, and pairs this book rotation with parent training and information on how to effectively share books to promote family literacy habits, language and literacy skills, and a love of learning.
 - c. "Motheread/Fatheread," a program that combines the teaching of literacy skills with child development and family empowerment issues.
 - d. "Dolly Parton Imagination Library," a program that provides a free, age-appropriate book each month to children ages birth to five years.

SECTION 10.4.(c) The Division of Child Development and Early Education and the North Carolina Partnership for Children, Inc., shall report by April 1, 2013, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Committee on Health and Human Services, the Senate Appropriations/Base Budget Committee on Health and Human Services, and the House of Representatives Appropriations Subcommittee on Health and Human Services on the progress in complying with this section.

SECTION 10.4.(d) The North Carolina Partnership for Children, Inc., shall include in its assistance to local partnerships training and assistance with fund-raising activities. Of the funds designated under subsection (a) of this section, the North Carolina Partnership for Children, Inc., shall hire a staff of four individuals who are qualified in the areas of grant writing and fund-raising to assist local partnerships in raising the amount of non-State funds required by law. The staff hired pursuant to this subsection shall be located regionally and be accessible to participate in the various local partnerships' activities.

SECTION 10.4.(e) Of the funds designated under subsection (a) of this section, the North Carolina Partnership for Children, Inc., shall provide assistance to local partnerships located in rural areas of the State. The North Carolina Partnership for Children, Inc., shall establish eligibility criteria for the use of funds pursuant to this subsection based on child poverty, child population, and counties that are identified as being the most economically distressed.

MEDICAID THERAPIES LIMIT REVISED

SECTION 10.5. Section 10.37(a)(2) of S.L. 2011-145 is repealed.

MEDICAID ELIGIBILITY/COLA DISREGARD

SECTION 10.6.(a) Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

§ 108A-54.4. Income disregard for federal cost-of-living adjustments.

An increase in a Medical Assistance Program recipient's income due solely to a cost-of-living adjustment to federal Social Security and Railroad Retirement payments shall be disregarded when determining income eligibility for the Medical Assistance Program. This section shall not be deemed to render a recipient eligible for the Medical Assistance Program if all other eligibility requirements are not met."

SECTION 10.6.(b) The Department of Health and Human Services shall apply to the Centers for Medicare and Medicaid Services for any necessary approvals to implement the income disregard required in subsection (a) of this section.

SECTION 10.6.(c) Subsection (a) of this section becomes effective January 1, 2013. The remainder of this section is effective when it becomes law. G.S. 108A-54.4, as enacted by subsection (a) of this section, expires on December 31, 2017.

MEDICAID NONEMERGENCY MEDICAL TRANSPORTATION SERVICES

SECTION 10.7.(a) The Department of Health and Human Services, Division of Medical Assistance, in consultation with the Department of Transportation, Public Transportation Division, shall develop and issue a Request for Proposal (RFP) for the management of nonemergency medical transportation (NEMT) services for Medicaid recipients.

SECTION 10.7.(b) The Department of Health and Human Services and the Department of Transportation shall consider at least all of the following information in developing the RFP required by this section:

- (1) An analysis of nonemergency transportation brokerage services implemented in other states that examines:
 - a. State-level governance and program performance evaluation.
 - b. Assignment of geographic regions for operating and monitoring purposes.
 - c. Quality of transportation service delivery and recipient access.
 - d. Accuracy of eligibility determinations.
 - e. Pricing models.
 - f. Contract structure, including terms and conditions.
 - g. Cost of service.
- (2) Assessment of the current coordination of human services transportation within North Carolina and the potential impact of brokerage services on transit system funding and operations.
- (3) A cost-benefit analysis of implementing a statewide NEMT brokerage model for Medicaid recipients.

SECTION 10.7.(c) The Division of Medical Assistance shall submit a written report to the Joint Legislative Oversight Committee on Health and Human Services and the Joint Legislative Oversight Committee on Transportation by September 15, 2012, on the analysis required by subdivisions (1), (2), and (3) of subsection (b) of this section.

SECTION 10.7.(d) The Division shall not enter into a contract with a vendor to provide NEMT services until (i) the Division meets the reporting requirements of subsection (c) of this section and (ii) the Department of Health and Human Services (DHHS) determines that it would be cost-effective to contract for NEMT services. The Secretary of DHHS shall only proceed with a vendor contract if the Secretary determines that DHHS can justify savings through the contract and ensure appropriate safety and quality of services for Medicaid recipients.

MODIFY AND IMPROVE PHARMACY SERVICES

SECTION 10.8. Section 10.48 of S.L. 2011-145 reads as rewritten:

"SECTION 10.48.(a) The Department of Health and Human Services shall revise its pharmacy dispensing fees under the Medicaid Program in order to encourage a greater proportion of prescriptions dispensed to be generic prescriptions and thereby achieve savings of fifteen million dollars (\$15,000,000) in the 2011-2012 fiscal year and twenty-four million dollars (\$24,000,000) in the 2012-2013 fiscal year.

"SECTION 10.48.(a1) In addition to the savings required by subsection (a) of this section, for the 2012-2013 fiscal year, the Department shall lower the fees paid to pharmacies for dispensing prescription drugs and expand prior authorization requirements to achieve a savings

of at least five million two hundred seventy-nine thousand six hundred one dollars (\$5,279,601). Any expansion of prior authorization requirements shall be consistent with the limitations set forth in Section 10.31(d)(2)r.5A. of S.L. 2011-145.

"SECTION 10.48.(a2) For the 2012-2013 fiscal year, the Department shall achieve a savings of at least one million three hundred ninety-one thousand nine hundred six dollars (\$1,391,906) through the implementation of a special pharmacy program for hemophilia drugs. The savings shall be achieved primarily through the use of the federal 340B Drug Pricing Program for the dispensing of hemophilia drugs under the Medicaid Program.

"SECTION 10.48.(b) The Department shall report its progress in achieving the savings required by ~~subsection (a) of this section~~ for the 2012-2013 fiscal year on ~~November 1, 2011, January 1, 2012,~~ November 1, 2012, and quarterly thereafter to the House of Representatives Appropriations Subcommittee on Health and Human Services, ~~and the Senate Appropriations Subcommittees~~ Committee on Health and Human Services and to the Fiscal Research Division. If any report required by this subsection reveals that those savings required by subsections (a) and (a1) of this section are not being achieved, the Department shall reduce prescription drug rates by an amount sufficient to achieve the savings.

"SECTION 10.48.(c) The Department shall apply to the Centers for Medicare and Medicaid Services by July 15, 2012, for any necessary approvals to implement the changes required by this section."

STUDY ELECTRONIC PRIOR AUTHORIZATION FOR MEDICAID PRESCRIPTIONS

SECTION 10.8A. The Department of Health and Human Services shall study the implementation of a system for the Medicaid program that would exchange standard electronic prior authorization requests with health care providers for drugs and devices using electronic data interchange standards consistent with those adopted by the National Council of Prescription Drug Programs for pharmacy benefits managers to exchange standard electronic prior authorization requests with health care providers. As part of its study, the Department shall review the experience of other states, including start-up costs and annual savings, to provide an estimate of the potential costs and savings for the State. No later than March 1, 2013, the Department shall report its findings to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division.

SMART CARD PILOT PROGRAM

SECTION 10.9.(a) S.L. 2011-117 is repealed.

SECTION 10.9.(b) The Department of Health and Human Services shall implement a smart card pilot program that involves enrollment, distribution, and use of smart cards by designated vendors and recipients as replacements for currently used Medicaid assistance cards. The Provider and Recipient Services Unit of the Division of Medical Assistance (DMA) shall administer the pilot program. The Department may contract with a third-party vendor or vendors to develop and execute the pilot program. If the Department elects to use a third-party vendor or vendors to develop and execute the pilot program, the Department shall select the vendor or vendors through a Request for Proposal process conducted prior to implementation of the pilot program. In developing and implementing the pilot program, the Department shall comply with all applicable information technology procurement requirements. The smart card pilot program shall not expand beyond the areas described in subsection (c) of this section unless the expansion is approved by an act of the General Assembly.

SECTION 10.9.(c) The purpose of the pilot program is to evaluate the feasibility of the smart card program in different geographical regions of the State. DMA shall select a region of the State to participate in the pilot program that is served by Community Care of North Carolina and meets all other requirements set forth in this section. The pilot program

shall be conducted in two urban areas and two rural areas with a representative group of Medicaid recipients from each area.

SECTION 10.9.(d) The pilot program shall include and evaluate the use of at least two different types of available technology that are designed to do all of the following:

- (1) Authenticate recipients at the onset and completion of each point of transaction in order to prevent card sharing and other forms of fraud.
- (2) Deny ineligible persons at the point of transaction.
- (3) Authenticate providers at the point of transaction to prevent phantom billing and other forms of provider fraud.
- (4) Secure and protect the personal identity and information of recipients.
- (5) Reduce the total amount of medical assistance expenditures by reducing the average cost per recipient.

SECTION 10.9.(e) The pilot program may include all of the following:

- (1) A secure Web-based information system for recording and reporting authenticated transactions.
- (2) A secure Web-based information system that interfaces with the appropriate State databases to determine eligibility of recipients.
- (3) A system that gathers analytical information to be provided to business intelligence companies in order to assist in business intelligence processes.
- (4) A smart card with the ability to store multiple recipients' information on one card.
- (5) An image of the recipient stored on both the smart card and database.

SECTION 10.9.(f) The pilot program shall not include a requirement for preenrollment of recipients.

SECTION 10.9.(g) In conducting the pilot program, the Department may do any of the following:

- (1) Incorporate additional or alternative methods of authentication of recipients.
- (2) Enter and store billing codes, deductible amounts, and bill confirmations.
- (3) Allow electronic prescribing services and prescription database integration and tracking in order to prevent medical error through information sharing and to reduce pharmaceutical abuse and lower health care costs.
- (4) Implement quick-pay incentives for providers who use electronic prescribing services, electronic health records, electronic patient records, or computerized patient records that automatically synchronize with recipients' smart cards and electronically submit a claim.
- (5) Adapt smart cards, fingerprint scanners, and card readers for use by other State programs administered by the Department in order to reduce costs associated with the necessity of multiple cards per recipient.

SECTION 10.9.(h) During the pilot program, the Department shall evaluate the feasibility of expanding the pilot program, including the need to develop rules and policies related to all of the following:

- (1) Lost, forgotten, or stolen cards.
- (2) Enrollment of all recipients, regardless of age, for participation in the program.
- (3) Distribution and activation of smart cards for designated recipients.

SECTION 10.9.(i) The Department shall work with the Division of Motor Vehicles to ensure that State data, such as drivers license photos and other identification data, is leveraged to reduce program cost.

SECTION 10.9.(j) By no later than March 1, 2013, the Department shall submit a detailed written report to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, the Senate Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The report shall include (i) detailed

results of the pilot in the four different geographic regions of the State, including cost savings achieved in each region; (ii) costs associated with implementation of the pilot program, including payments to vendors; and (iii) an evaluation of the feasibility of, and issues associated with, implementing the smart card program statewide.

SECTION 10.9.(k) Of the funds appropriated from the General Fund to the Department of Health and Human Services for the 2012-2013 fiscal year, the sum of up to one million dollars (\$1,000,000) may be used to implement the smart card pilot program authorized by this section.

STATE AUDITOR AUDIT DIVISION OF MEDICAL ASSISTANCE

SECTION 10.9A.(a) The State Auditor shall conduct a performance audit of the North Carolina Medicaid Program and the Division of Medical Assistance operated within the Department of Health and Human Services. The audit shall examine the program's effectiveness; results of the program; the utilization of outside vendor contracts, including the number, cost, and duration of such contracts; fiscal controls and Medicaid forecasting; and compliance with requirements of the Centers for Medicare and Medicaid Services and the requirements of State law.

SECTION 10.9A.(b) The State Auditor shall give a preliminary report on the performance audit required by this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division by November 1, 2012, and shall complete the performance audit by February 1, 2013.

SECTION 10.9A.(c) Of the funds appropriated to the Department of Health and Human Services, Division of Medical Assistance, from the General Fund for the 2012-2013 fiscal year to fund contracts, the Department shall transfer to the North Carolina Office of the State Auditor the amount of funds necessary to complete the performance audit required by this section.

PED/FRD JOINT STUDY MEDICAID ORGANIZATION

SECTION 10.9B.(a) The Program Evaluation Division and the Fiscal Research Division of the General Assembly shall jointly study the feasibility of creating a separate Department of Medicaid and make a joint recommendation on this issue to the 2013 Regular Session of the General Assembly no later than February 15, 2013.

SECTION 10.9B.(b) The joint study directed by subsection (a) of this section shall include all of the following:

- (1) A review of how other states administer Medicaid programs, including the following aspects:
 - a. State Plan development and policy management.
 - b. Payment of claims.
 - c. Budget forecasting.
 - d. Rate-setting.
 - e. Appeals.
 - f. Involvement in management of care.
- (2) An analysis of benefits and disadvantages of Medicaid becoming a stand-alone State department, including the following considerations:
 - a. Overhead costs to be saved or increased as a result of any proposed changes.
 - b. Identification of any efficiencies to be gained from such reorganization.
 - c. Identification of any costs that would be incurred as a result of this reorganization.
 - d. Whether it is feasible to also move any other divisions or programs within the Department of Health and Human Services (DHHS) into a new Department of Medicaid.

- (3) Whether moving Medicaid into its own department would have any adverse impact on funding streams to and administration of other agencies within DHHS.
- (4) Identification of various Medicaid organizational structures and their costs and savings.

REMOVE AUTHORITY FOR MEDICAID PROVIDER RATE AND SERVICE REDUCTION

SECTION 10.9C.(a) Except as otherwise provided in this act to achieve Medicaid pharmacy program savings or in Section 10.48 of S.L. 2011-145, notwithstanding any other provision of law, for the 2012-2013 fiscal year, the Department of Health and Human Services shall not reduce Medicaid provider payment rates or Medicaid optional services.

SECTION 10.9C.(b) The requirements of subsection (a) of this section shall not affect (i) a Medicaid provider payment rate reduction or Medicaid optional service reduction made prior to the effective date of this act; (ii) any applications for Medicaid program modifications authorized by S.L. 2011-145 that are in the process of being approved by the Centers for Medicare and Medicaid Services as of the effective date of this act; or (iii) a reduction in Medicaid provider payment rates or optional services required by a change in federal law or regulation.

OUTPATIENT IMAGING SERVICES

SECTION 10.9D.(a) The Department of Health and Human Services shall not enter into a new contract with a vendor to provide outpatient imaging services for the Medicaid Program prior to March 31, 2013.

SECTION 10.9D.(b) Prior to entering into any new contract with a vendor to provide outpatient imaging services, if the Department of Health and Human Services determines that the new contract shall utilize a radiology decision support program rather than a capitated model, 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 to demonstrate that the transition to a radiology decision support system shall result in spending by the State on imaging services for Medicaid patients at an amount that is less than or equal to the actual amount spent on outpatient imaging services under the most recent radiology management services vendor contract.

MEDICAID OPTION/SPECIAL CARE AND MEMORY CARE UNITS

SECTION 10.9E.(a) The Department of Health and Human Services, Division of Medical Assistance, shall develop and submit to the Centers for Medicare and Medicaid Services an application for a home- and community-based services program under Medicaid State Plan 1915(i) authority for elderly individuals who (i) are typically served in special care and memory care units that meet the criteria of the State-County Special Assistance Program and (ii) have been diagnosed with a progressive, degenerative, irreversible disease that attacks the brain and results in impaired memory, thinking, and behavior. The home- and community-based services program developed by the Department pursuant to this section shall focus on providing these elderly individuals with personal care services necessary to ameliorate the effects of gradual memory loss, impaired judgment, disorientation, personality change, difficulty in learning, and loss of language skills.

SECTION 10.9E.(b) The Division shall implement the program upon approval of the application by the Centers for Medicare and Medicaid Services.

SECTION 10.9E.(c) On or before April 1, 2013, the Division shall provide a report on the status of approval and implementation of the program to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health

and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

PERSONAL CARE SERVICES/ADL ELIGIBILITY

SECTION 10.9F.(a) Section 10.38 of S.L. 2011-145 is repealed.

SECTION 10.9F.(b) Section 10.37(a)(1) of S.L. 2011-145, as amended by Section 25 of S.L. 2011-391, reads as rewritten:

"AUTHORIZE THE DIVISION OF MEDICAL ASSISTANCE TO TAKE CERTAIN STEPS TO EFFECTUATE COMPLIANCE WITH BUDGET REDUCTIONS IN THE MEDICAID PROGRAM

"SECTION 10.37.(a) The Department of Health and Human Services, Division of Medical Assistance, may take the following actions, notwithstanding any other provision of this act or other State law or rule to the contrary:

- (1) ~~In-Home~~Personal Care Services for Children provision. – ~~In order to enhance in-home aide services to Medicaid recipients, the~~The Department of Health and Human Services, Division of Medical ~~Assistance,~~Assistance (DMA), shall:
 - a. ~~No longer provide~~Provide services ~~under PCS and PCS Plus whenever CMS approves the elimination of the PCS and PCS Plus programs and the implementation of the following two new services:~~
 1. ~~In-Home Care for Children (IHCC).~~— Services to assist families to meet the ~~in-home~~personal care needs of children, including those individuals under the age of 21 receiving comprehensive and preventive child health services through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.
 2. ~~In-Home Care for Adults (IHCA).~~— Services to meet the eating, dressing, bathing, toileting, and mobility needs of individuals 21 years of age or older who, because of a medical condition, disability, or cognitive impairment, demonstrate unmet needs for, at a minimum, (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance; (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level. The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. ~~IHCA shall serve individuals at the highest level of need for in-home care who are able to remain safely in the home.~~
 - b. Establish, in accordance with G.S. 108A-54.2, a Medical Coverage Policy ~~for each of these programs, to include:~~include up
 1. ~~For IHCC, up to 60 hours per month in accordance with an~~independent assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee. Additional hours may be authorized when the services are required to correct or ameliorate defects and physical and mental illnesses and conditions in this age group, as defined in 42 U.S.C. § 1396d(r)(5), in accordance with a plan of care approved by DMA or its designee.
 2. ~~For IHCA, up to 80 hours per month in accordance with an assessment conducted by DMA or its designee and a plan of care developed by the service provider and approved by DMA or its designee.~~

- c. Implement the following ~~program~~ limitations and restrictions to apply to ~~both IHCC and IHCA~~ the provision of personal care services to children:
1. Additional services to children required under federal EPSDT requirements shall be provided to qualified ~~recipients in the IHCC Program~~ recipients.
 2. Services shall be provided in a manner that supplements, rather than supplants, family roles and responsibilities.
 3. Services shall be authorized in amounts based on assessed need of each recipient, taking into account care and services provided by the family, other public and private agencies, and other informal caregivers who may be available to assist the family. All available resources shall be utilized fully, and services provided by such agencies and individuals shall be disclosed to the DMA assessor.
 4. Services shall be directly related to ~~the hands-on assistance and related tasks to complete each qualifying ADL in accordance with the IHCC or IHCA~~ the personal care service assessment and plan of care, as applicable.
 5. Services ~~provided under IHCC and IHCA~~ shall not include household chores not directly related to ~~the qualifying ADLs,~~ nonmedical transportation, financial management, and non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting.
 6. ~~Essential errands that are critical to maintaining the health and welfare of the recipient may be approved on a case-by-case basis by the DMA assessor when there is no family member, other individual, program, or service available to meet this need. Approval, including the amount of time required to perform this task, shall be documented on the recipient's assessment form and plan of care.~~
- d. Utilize the following process for ~~admission~~ evaluation or reevaluation to the IHCC and IHCA programs: provide personal care services to children:
1. The recipient shall be seen by his or her primary or attending physician, who shall provide written authorization for referral for the service and written attestation to the medical necessity for the service.
 2. All assessments for ~~admission to IHCC and IHCA,~~ the provision of services, continuation of these services, and change of status reviews for these services shall be performed by DMA or its designee. The DMA designee may not be an owner of a provider business or provider of ~~in-home or~~ personal care services of any type.
 3. DMA or its designee shall determine and authorize the amount of service to be provided on a "needs basis," as determined by its review and findings of each recipient's degree of functional disability and level of unmet ~~needs for hands on personal assistance in the five qualifying ADLs~~ needs.
- e. Take all appropriate actions to manage the cost, quality, program compliance, and utilization of ~~personal care services provided under the IHCC and IHCA programs,~~ services, including, but not limited to:

1. Priority independent reassessment of recipients before the anniversary date of their initial ~~admission or reassessment for those recipients likely to qualify for the restructured IHCC and IHCA programs.~~ assessment.
 2. Priority independent reassessment of recipients requesting a change of service provider.
 3. Targeted independent reassessments of recipients prior to their anniversary dates when the current provider assessment indicates they may not qualify for ~~the program~~ personal care services or for the amount of services they are currently receiving.
 4. Targeted independent reassessment of recipients receiving services from providers with a history of ~~program noncompliance.~~ noncompliance in providing personal care services to children.
 5. ~~Provider desk and on-site reviews and recoupment of all identified overpayments or improper payments.~~
 6. ~~Recipient reviews, interviews, and surveys.~~
 7. The use of mandated electronic transmission of referral forms, plans of care, and reporting forms.
 8. The use of mandated electronic transmission of uniform reporting forms for recipient complaints and critical incidents.
 9. The use of automated systems to monitor, evaluate, and profile provider performance against established performance indicators.
 10. Establishment of rules that implement the requirements of 42 C.F.R. § 441.16.
- f. ~~Time line for implementation of new IHCC and IHCA programs.~~
1. ~~Subject to approvals from CMS, DMA shall make every effort to implement the new IHCC and IHCA programs by January 1, 2013.~~
 2. ~~DMA shall ensure that individuals who qualify for the IHCC and IHCA programs shall not experience a lapse in service and, if necessary, shall be admitted on the basis of their current provider assessment when an independent reassessment has not yet been performed and the current assessment documents that the medical necessity requirements for the IHCC or IHCA program, as applicable, have been met.~~
 3. ~~Prior to the implementation date of the new IHCC and IHCA programs, all recipients in the PCS and PCS Plus programs shall be notified pursuant to 42 C.F.R. § 431.220(b) and discharged, and the Department shall no longer provide services under the PCS and PCS Plus programs, which shall terminate. Recipients who qualify for the new IHCC and IHCA programs shall be admitted and shall be eligible to receive services immediately."~~

SECTION 10.9F.(c) A Medicaid recipient who meets each of the following criteria is eligible for personal care services:

- (1) The recipient has a medical condition, disability, or cognitive impairment and demonstrates unmet needs for, at a minimum, (i) three of the five qualifying activities of daily living (ADLs) with limited hands-on assistance;

- (ii) two ADLs, one of which requires extensive assistance; or (iii) two ADLs, one of which requires assistance at the full dependence level.
- (2) The recipient resides either in a private living arrangement, a residential facility licensed by the State of North Carolina as an adult care home, or a combination home as defined in G.S. 131E-101(1a).

The five qualifying ADLs are eating, dressing, bathing, toileting, and mobility. Personal care services shall be available for up to 80 hours per month in accordance with an assessment conducted under subsection (d) of this section and a plan of care developed by the service provider and approved by the Department of Health and Human Services, Division of Medical Assistance, or its designee. Personal care services shall not include nonmedical transportation; financial management; non-hands-on assistance such as cueing, prompting, guiding, coaching, or babysitting; and household chores not directly related to the qualifying ADLs.

SECTION 10.9F.(d) All assessments for personal care services, continuation of service, and change of status reviews shall be performed by an independent assessment entity (IAE). The IAE shall not be an owner of a provider business or provider of personal care services of any type.

A recipient shall be assessed by the IAE after the recipient's primary or attending physician provides written authorization for referral for the service and written attestation to the medical necessity for the service. The IAE shall determine and authorize the amount of service to be provided as determined by its review and findings of each recipient's degree of functional disability and level of unmet needs for personal care services in the five qualifying ADLs.

SECTION 10.9F.(e) The Department of Health and Human Services shall report to the Joint Legislative Oversight Committee on Health and Human Services by September 1, 2012, on the implementation of this section and on its progress in making independent assessments of recipients.

SECTION 10.9F.(f) The Department of Health and Human Services shall apply to the Centers for Medicare and Medicaid Services by July 15, 2012, for a Medicaid State Plan Amendment to implement this section.

SECTION 10.9F.(g) Subsections (c) and (d) of this section become effective January 1, 2013.

APPROPRIATIONS CONTINGENT UPON ADEQUACY OF FUNDING FOR MEDICAID BUDGET

SECTION 10.9G. Notwithstanding any other provision of this act or any other provision of law, the Department of Health and Human Services shall not, under any circumstances, expend any of the funds appropriated in this act for the 2012-2013 fiscal year for the following purposes until January 1, 2013, pending a determination by the Office of State Budget and Management that there is adequate funding for the Medicaid budget for the 2012-2013 fiscal year:

- (1) Funds appropriated to the Division of Child Development and Early Education pursuant to Section 10.4 of this act for "Read NC" Early Literacy Initiative, Development Officers, and assistance to rural partnerships.
- (2) Funds appropriated to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for the following:
 - a. Additional psychiatric care beds at Broughton Hospital.
 - b. Additional local inpatient psychiatric beds or bed days available to local management entities or managed care organizations under the State-administered three-way contract pursuant to Section 10.10 of this act.
- (3) Funds appropriated to the Division of Public Health pursuant to Section 10.14(a)(5) of this act for local community health and wellness initiatives.

FUNDS FOR INPATIENT PSYCHIATRIC BEDS OR BED DAYS

SECTION 10.10. Section 10.8(b) of S.L. 2011-145 reads as rewritten:

"SECTION 10.8.(b) 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 twenty-nine million one hundred twenty-one thousand six hundred forty-four dollars (\$29,121,644) for the 2011-2012 fiscal year and the sum of ~~twenty-nine million one hundred twenty-one thousand six hundred forty-four dollars (\$29,121,644)~~thirty-eight million one hundred twenty-one thousand six hundred forty-four dollars (\$38,121,644) for the 2012-2013 fiscal year shall be allocated for the purchase of local inpatient psychiatric beds or bed ~~days-days~~days; provided, however, the Department shall not expend nine million dollars (\$9,000,000) of the funds appropriated in this section for the 2012-2013 fiscal year until January 1, 2013, pending a determination by the Office of State Budget and Management that there is adequate funding for the Medicaid budget for the 2012-2013 fiscal year, as provided in Section 10.9G of House Bill 950, 2012 Regular Session. In addition, at the discretion of the Secretary of Health and Human Services, existing funds allocated to LMEs for community-based mental health, developmental disabilities, and substance abuse services may be used to purchase additional local inpatient psychiatric beds or bed days. These beds or bed days shall be distributed across the State in LME catchment ~~areas~~areas, including any catchment areas served by managed care organizations, and 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. The Department shall work to ensure that these contracts are awarded equitably around all regions of the State. 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 30 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 Utilization Pilot funds appropriated in S.L. 2007-323. Not later than March 1, 2012, 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 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."

EXAMINATION OF THE STATE'S DELIVERY OF MENTAL HEALTH SERVICES

SECTION 10.11.(a) The Joint Legislative Oversight Committee on Health and Human Services shall appoint a subcommittee to examine the State's delivery of mental health services. As part of its examination, the subcommittee shall review all of the following:

- (1) The State's progress in reforming the mental health system to deliver mental health services to individuals in the most integrated setting appropriate, without unnecessary institutionalization.
- (2) The State's capacity to meet its growing mental health needs with community-based supports.
- (3) The process for determining the catchment areas served by the State's psychiatric hospitals, with consideration of both of the following:
 - a. Factors used in assigning the geographic groupings of local management areas and managed care organizations into catchment areas.
 - b. Alternatives to the current process for determining the catchment areas served by the State's psychiatric hospitals, including a determination of whether there is a more efficient and equitable manner of assigning hospital catchment areas.

SECTION 10.11.(b) The subcommittee shall report its findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services on or before January 15, 2013, at which time it shall terminate.

FUNDS FOR FAMILY PLANNING SERVICES BY LOCAL HEALTH DEPARTMENTS

SECTION 10.12. Of the funds appropriated in this act to the Department of Health and Human Services for the 2012-2013 fiscal year, none shall be allocated to renewing, extending, or entering into new contracts for the provision of family planning services and pregnancy prevention activities with providers other than local health departments. Upon the expiration of any contracts in effect during the 2011-2012 fiscal year between the Division of Public Health and private providers of family planning services and pregnancy prevention activities, the Department shall reallocate three hundred forty-three thousand dollars (\$343,000) of these contract funds to local health departments. Local health departments receiving funds under this section shall not contract with private providers for the provision of family planning services or pregnancy prevention activities. These services and activities shall be provided directly by local health department recipients or by other governmental entities contracted by local health department recipients. This section does not apply to contracts administered by the Department pursuant to G.S. 130A-131.15A.

COMMUNITY HEALTH GRANT FUNDING

SECTION 10.13.(a) By no later than January 1, 2013, the Department of Health and Human Services shall enter into contracts obligating the entire amount of funds appropriated in this act for community health centers for the 2012-2013 fiscal year. These funds shall be used only for community health grants to nonprofit or public health care safety nets that provide primary and preventive medical services to uninsured or medically indigent patients, including free clinics, community health care centers, rural health centers, school-based health centers, and local health departments. The Department shall not use these funds to supplant any reduction in funding prescribed by the General Assembly for the 2012-2013 fiscal year.

SECTION 10.13.(b) By no later than March 1, 2013, the Department of Health and Human Services shall submit a written report on community health grants awarded during the 2012-2013 fiscal year to the Joint Legislative Oversight Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the House

Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The report shall include at least all of the following:

- (1) The identity and a brief description of the community health activities performed by each grantee.
- (2) The amount of funding awarded to each grantee.
- (3) The number of persons served by each grantee.

FUNDS FOR COMMUNITY-BASED HEALTH AND WELLNESS INITIATIVES

SECTION 10.14.(a) Funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, for the 2012-2013 fiscal year for community-based health and wellness programs and initiatives shall be used only for the following:

- (1) Programs to prevent and reduce tobacco use by students in grades kindergarten through 12. The Department shall not spend any funds allocated to these programs for statewide marketing and media campaigns for tobacco cessation and prevention. This subdivision shall not be construed to prohibit the use of these funds for (i) local or community-based tobacco cessation and prevention campaigns, (ii) tobacco cessation and prevention campaigns conducted on the premises of North Carolina elementary schools, middle schools, and high schools, or (iii) the North Carolina Tobacco Use Quitline known as QuitlineNC.
- (2) CheckMeds.
- (3) Medication Assistance Program.
- (4) Roanoke Chowan Telehealth Network.
- (5) Local health department initiatives, provided, however, the Department shall not use these funds for local health department initiatives until January 1, 2013, pending a determination by the Office of State Budget and Management (OSBM) that there is adequate funding for the Medicaid budget for the 2012-2013 fiscal year, as provided in Section 10.9G of this act. Upon a determination by OSBM that there is adequate funding for the Medicaid budget for the 2012-2013 fiscal year, local health departments shall use these funds only for local community health and wellness initiatives to promote healthy behaviors, including, but not limited to, tobacco cessation, improved nutrition, increased physical activity, disease prevention, and school nurse positions. Funds received by local health departments pursuant to this section shall not supplant existing funds for local health and wellness programs or initiatives.

SECTION 10.14.(b) By December 1, 2013, the Department shall submit a written report to the Joint Legislative Oversight Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the use of these funds. The report shall include at least all of the following:

- (1) The identity and a brief description of each grantee and each program or initiative offered by the grantee.
- (2) The amount of funding awarded to each grantee.
- (3) The number of persons served by each grantee, broken down by program or initiative.

DELAY LOCAL RECEIPT OF LARGER PORTION OF FOOD & LODGING FEES

SECTION 10.15. Section 31.11A(c) of S.L. 2011-145, as amended by Section 61A of S.L. 2011-391, reads as rewritten:

"SECTION 31.11A.(c) Subsection (a) of this section becomes effective ~~July 1, 2012.~~July 1, 2013."

AIDS DRUG ASSISTANCE PROGRAM PILOT

SECTION 10.16.(a) The Department of Health and Human Services, Division of Public Health, shall develop a pilot program to enroll individuals receiving services under the Aids Drug Assistance Program (ADAP) in Inclusive Health North Carolina. The Department shall not implement the pilot program until it obtains actuarial services to ensure the cost neutrality or cost savings of enrolling ADAP recipients in Inclusive Health North Carolina. If an actuary determines that implementation will be cost neutral or achieve savings, the Department shall implement the pilot program for the period commencing January 1, 2013, and terminating December 31, 2013. The purposes of the pilot are (i) to determine cost savings to ADAP through enrollment of ADAP recipients in a preexisting conditions insurance program (PCIP) and (ii) to inform the Department of best practices in transitioning ADAP recipients to Medicaid as they become eligible. The Department shall select up to three HIV/AIDS care provider agencies with the highest number of ADAP recipients to participate in the pilot. The Department shall ensure that the total number of ADAP recipients participating in the pilot meets all of the following requirements:

- (1) Participation does not exceed ten percent (10%) of the total number of ADAP recipients.
- (2) ADAP recipients shall be enrolled in Inclusive Health North Carolina only up to the point that enrollment remains cost neutral or achieves cost savings to ADAP, as determined by an actuary.

SECTION 10.16.(b) The Department may contract with a vendor to evaluate the results of the pilot program. By no later than April 1, 2014, the Department shall report to the Joint Legislative Oversight Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the House Appropriations Subcommittee on Health and Human Services on the results of the pilot program. The report shall include all of the following:

- (1) The number of pilot program participants.
- (2) A cost analysis for the pilot program, including a cost comparison between ADAP recipients who received services through Inclusive Health North Carolina and ADAP recipients who received services only through ADAP.
- (3) Feedback from pilot program participants.
- (4) Best practices identified by the Department for transitioning ADAP recipients to Medicaid as they become eligible.
- (5) Improved health outcomes.

SECTION 10.16.(c) The Department shall use funds appropriated to it to develop and implement the pilot program authorized by this section. The Division of Public Health shall manage the number of ADAP recipients enrolled in Inclusive Health North Carolina as part of the pilot program and the number of ADAP recipients receiving services only through ADAP in order to ensure that pilot program expenditures do not exceed available funds.

REDUCE FUNDING FOR NONPROFIT ORGANIZATIONS

SECTION 10.18.(a) Section 10.18 of S.L. 2011-145 is repealed.

SECTION 10.18.(b) For fiscal year 2012-2013, the Department of Health and Human Services shall reduce the amount of funds allocated to nonprofit organizations by five million dollars (\$5,000,000) on a recurring basis. The Department shall not, under any circumstances, use any funds, including State funds, federal funds, special revenue funds, or departmental receipts, to supplement the reduced amount of funding to be allocated to nonprofit organizations pursuant to this subsection. In achieving the reductions required by this subsection, the Department (i) shall minimize reductions to funds allocated to nonprofit organizations for the provision of direct services and (ii) shall not reduce funds allocated to nonprofit organizations to pay for direct services to individuals with developmental disabilities.

REPORTS BY NON-STATE ENTITIES RECEIVING DIRECT STATE APPROPRIATIONS

SECTION 10.19.(a) The Department of Health and Human Services shall require the following non-State entities to match ten percent (10%) of the total amount of State appropriations received each fiscal year. In addition, the Department shall direct these entities to submit a written report annually, beginning December 1, 2012, of all activities funded by State appropriations to the Joint Legislative Oversight Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division:

- (1) North Carolina Senior Games, Inc.
- (2) ARC of North Carolina.
- (3) ARC of North Carolina – Wilmington.
- (4) Autism Society of North Carolina.
- (5) The Mariposa School for Children with Autism.
- (6) Easter Seals UCP of North Carolina.
- (7) Easter Seals UCP of North Carolina and Virginia.
- (8) ABC of North Carolina Child Development Center.
- (9) Residential Services, Inc.
- (10) Oxford House, Inc.
- (11) Brain Injury Association of North Carolina.
- (12) Food Bank of Central and Eastern North Carolina, Inc.
- (13) Food Bank of the Albemarle.
- (14) Manna Food Bank.
- (15) Second Harvest Food Bank of Metrolina, Inc.
- (16) Second Harvest Food Bank of Northwest North Carolina, Inc.
- (17) Second Harvest Food Bank of Southeast North Carolina
- (18) Prevent Blindness NC.

SECTION 10.19.(b) The report required by subsection (a) of this section shall include the following information about the fiscal year preceding the year in which the report is due:

- (1) The entity's mission, purpose, and governance structure.
- (2) A description of the types of programs, services, and activities funded by State appropriations.
- (3) Statistical and demographical information on the number of persons served by these programs, services, and activities, including the counties in which services are provided.
- (4) Outcome measures that demonstrate the impact and effectiveness of the programs, services, and activities.
- (5) A detailed program budget and list of expenditures, including all positions funded and funding sources.
- (6) The source and amount of any matching funds received by the entity.

REPORT ON LAPSED SALARY FUNDS

SECTION 10.20. Beginning no later than November 1, 2012, the Department of Health and Human Services shall submit quarterly reports to the Joint Legislative Oversight Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on the use of lapsed salary funds by each Division within the Department. For each Division, the report shall include the following information about the preceding calendar quarter:

- (1) The total amount of lapsed salary funds.

- (2) The number of full-time equivalent positions comprising the lapsed salary funds.
- (3) The Fund Code for each full-time equivalent position included in the number reported pursuant to subdivision (2) of this section.
- (4) The purposes for which the Department expended lapsed salary funds.

REVISE DATES/TANF BENEFIT IMPLEMENTATION

SECTION 10.22. Section 10.55 of S.L. 2011-145 reads as rewritten:

"SECTION 10.55.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan ~~FY 2010-2012,~~"2012-2015," prepared by the Department of Health and Human Services and presented to the General Assembly. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, ~~2010,~~2012, through September 30, ~~2012,~~2015. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services, as amended by this act or any other act of the 2011 General Assembly.

"SECTION 10.55.(b) The counties approved as Electing Counties in the North Carolina Temporary Assistance for Needy Families State Plan ~~FY 2010-2012,~~2012-2015, as approved by this section are Beaufort, Caldwell, Catawba, Lenoir, Lincoln, Macon, and Wilson.

"SECTION 10.55.(c) Counties that submitted the letter of intent to remain as an Electing County or to be redesignated as an Electing County and the accompanying county plan for ~~fiscal year 2011~~years 2012 through ~~2012,~~2015, pursuant to G.S. 108A-27(e), shall operate under the Electing County budget requirements effective July 1, ~~2009,~~2012. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, ~~2012,~~2015.

"SECTION 10.55.(d) For the ~~2011-2012~~2012-2013 fiscal year, Electing Counties shall be held harmless to their Work First Family Assistance allocations for the ~~2010-2011~~2011-2012 fiscal year, provided that remaining funds allocated for Work First Family Assistance and Work First Diversion Assistance are sufficient for payments made by the Department on behalf of Standard Counties pursuant to G.S. 108A-27.11(b).

"SECTION 10.55.(e) In the event that departmental projections of Work First Family Assistance and Work First Diversion Assistance for the ~~2011-2012~~2012-2013 fiscal year indicate that remaining funds are insufficient for Work First Family Assistance and Work First Diversion Assistance payments to be made on behalf of Standard Counties, the Department is authorized to deallocate funds, of those allocated to Electing Counties for Work First Family Assistance in excess of the sums set forth in G.S. 108A-27.11, up to the requisite amount for payments in Standard Counties. Prior to deallocation, the Department shall obtain approval by the Office of State Budget and Management. If the Department adjusts the allocation set forth in subsection (d) of this section, 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."

EQUALIZE SPECIAL ASSISTANCE PAYMENTS UNDER IN-HOME, ADULT CARE HOME, AND RENTAL ASSISTANCE PROGRAMS

SECTION 10.23.(a) G.S. 108A-47.1 reads as rewritten:

"§ 108A-47.1. Special Assistance in-home payments.

(a) The Department of Health and Human Services may use funds from the existing State-County Special Assistance budget to provide Special Assistance payments to eligible individuals 18 years of age or older in in-home living arrangements. These payments may be made for up to fifteen percent (15%) of the caseload for all State-County Special Assistance. The standard monthly payment to individuals enrolled in the Special Assistance in-home program shall be ~~seventy-five percent (75%)~~one hundred percent (100%) of the monthly

payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that in-home program participants are those individuals who need and, but for the in-home program, would seek placement in an adult care home facility. The Department's policies and procedures shall include the use of a functional assessment. ~~The Department shall make this in-home option available to all counties on a voluntary basis. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State.~~

(b) All county departments of social services shall participate in the State-County Special Assistance in-home program by making Special Assistance in-home slots available to individuals who meet the eligibility requirements established by the Department pursuant to subsection (a) of this section. By February 15, 2013, the Department shall establish a formula to determine the need for additional State-County Special Assistance in-home slots for each county. Beginning July 1, 2014, and each July 1 thereafter, the Department shall review and revise the formula as necessary."

SECTION 10.23.(b) County departments of social services with established State-County Special Assistance in-home slots that have filled some but not all slots as of February 15, 2013, shall maintain at least the same number of slots during the 2012-2013 fiscal year as the average number of slots filled during the 2011-2012 fiscal year.

SECTION 10.23.(c) County departments of social services with established State-County Special Assistance in-home slots that have not filled any of these slots as of February 15, 2013, shall begin participating in the Special Assistance in-home program effective February 15, 2013, by filling all their established slots.

SECTION 10.23.(d) County departments of social services with no established State-County Special Assistance in-home slots shall begin participating in the Special Assistance in-home program effective February 15, 2013. The Department shall determine the designated number of slots to be established and filled in these counties by assessing the need for these slots based upon a percentage of the caseload for all State-County Special Assistance within that county.

SECTION 10.23.(e) Effective February 15, 2013, notwithstanding G.S. 108A-47.1(a) and within existing appropriations for State-County Special Assistance, the Secretary of the Department of Health and Human Services may waive the fifteen percent (15%) cap on Special Assistance in-home payments, as the Secretary deems necessary.

SECTION 10.23.(f) G.S. 143B-139.5 reads as rewritten:

"§ 143B-139.5. Department of Health and Human Services; adult care State/county share of ~~costs~~ costs; maintenance of State/county budget allocations for State-County Special Assistance programs.

State funds available to the Department of Health and Human Services shall pay fifty percent (50%), and the counties shall pay fifty percent (50%) of the authorized rates for care in adult care homes including area mental health agency-operated or contracted-group homes. The Department shall maintain the State's appropriation to the State-County Special Assistance program at one hundred percent (100%) of the State certified budget enacted by the General Assembly for the 2012-2013 fiscal year. The Department shall use these appropriated funds for the State-County Special Assistance program, the State-County Special Assistance in-home program, and rental assistance. Each county department of social services shall maintain its allocation to the State-County Special Assistance program at one hundred percent (100%) of the county funds budgeted for this program for the 2011-2012 fiscal year. Each county shall use these funds for the State-County Special Assistance program, the State-County Special Assistance in-home program, and rental assistance."

SECTION 10.23.(g) Section 10.59 of S.L. 2011-145 reads as rewritten:

"STATE-COUNTY SPECIAL ASSISTANCE

"SECTION 10.59.(a) The maximum monthly rate for residents in adult care home facilities shall be one thousand one hundred eighty-two dollars (\$1,182) per month per ~~resident unless adjusted by the Department in accordance with subsection (d) of this section.~~ resident. The eligibility of Special Assistance recipients residing in adult care homes on September 30, 2009, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from the adoption of this maximum monthly rate, provided these recipients are otherwise eligible.

"SECTION 10.59.(b) The maximum monthly rate for residents in Alzheimer/Dementia special care units shall be one thousand five hundred fifteen dollars (\$1,515) per month per ~~resident unless adjusted by the Department in accordance with subsection (d) of this section.~~ resident.

"SECTION 10.59.(c) ~~Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH PCS) under federal law. As determined, and with any necessary approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State Budget and Management, the Department may transfer necessary funds from the State County Special Assistance program within the Division of Social Services to the Division of Medical Assistance and may use those funds as State match to draw down federal matching funds to pay for such activities and costs under Medicaid's personal care services for adult care homes (ACH PCS), thus maximizing available federal funds. The established rate for State County Special Assistance set forth in subsections (b) and (c) of this section shall be adjusted by the Department to reflect any transfer of funds from the Division of Social Services to the Division of Medical Assistance and related transfer costs and responsibilities from State County Special Assistance to the Medicaid personal care services for adult care homes (ACH PCS). Subject to approval by the Centers for Medicare and Medicaid Services (CMS) and prior to implementing this section, the Department may disregard a limited amount of income for individuals whose countable income exceeds the adjusted State County Special Assistance rate. The amount of the disregard shall not exceed the difference between the Special Assistance rate prior to the adjustment and the Special Assistance rate after the adjustment and shall be used to pay a portion of the cost of the ACH PCS and reduce the Medicaid payment for the individual's personal care services provided in an adult care home. In no event shall the reimbursement for services through the ACH PCS exceed the average cost of the services as determined by the Department from review of cost reports as required and submitted by adult care homes. The Department shall report any transfers of funds and modifications of rates to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.~~

"SECTION 10.59.(d) ~~The Department of Health and Human Services shall recommend rates for State County Special Assistance and for Adult Care Home Personal Care Services. The Department may recommend rates based on appropriate cost methodology and cost reports submitted by adult care homes that receive State County Special Assistance funds and shall ensure that cost reporting is done for State County Special Assistance and Adult Care Home Personal Care Services to the same standards as apply to other residential service providers."~~

SECTION 10.23.(h) This section becomes effective February 15, 2013.

TRANSITIONS TO COMMUNITY LIVING INITIATIVE

SECTION 10.23A.(a) The General Assembly finds that the State's long-term care industry plays a vital role in ensuring that citizens are afforded opportunities for safe housing and adequate client-centered supports in order to live as independently as possible in their homes and communities across the State. This role is consistent with citizens of the State having the opportunity to live in the most appropriate, integrated settings of their choice. The

General Assembly also is committed to the development of a plan that continues to advance the State's current system into a statewide system of person-centered, affordable services and supports that emphasize an individual's dignity, choice, and independence and provides new opportunities and increased capacity for community housing and community supports.

SECTION 10.23A.(b) Blue Ribbon Commission on Transitions to Community Living. – There is established the Blue Ribbon Commission on Transitions to Community Living (Commission). The Commission shall (i) examine the State's system of community housing and community supports for people with severe mental illness, severe and persistent mental illness, and intellectual and developmental disabilities and (ii) develop a plan that continues to advance the State's current system into a statewide system of person-centered, affordable services and supports that emphasize an individual's dignity, choice, and independence. In the execution of its duties, the Commission shall consider the following:

- (1) Policies that alter the State's current practices with respect to institutionally based services to community-based services delivered as close to an individual's home and family as possible.
- (2) Best practices in both the public and private sectors in managing and administering long-term care to individuals with disabilities.
- (3) An array of services and supports for people with severe mental illness and severe and persistent mental illness, such as respite, community-based supported housing and community-based mental health services, to include evidence-based, person-centered recovery supports and crisis services and supported employment.
- (4) For adults with intellectual and other developmental disabilities, expansion of community-based services and supports, housing options, and supported work. Maximize the use of habilitation services that may be available via the Medicaid "I" option for individuals who do not meet the ICF-MR level of need.
- (5) Methods to responsibly manage the growth in long-term care spending, including use of Medicaid waivers.
- (6) Options for repurposing existing resources while considering the diverse economic challenges in communities across the State.
- (7) Opportunities for systemic change and maximization of housing, and service and supports funding streams, including State-County Special Assistance and the State's Medicaid program.
- (8) The appropriate role of adult care homes and other residential settings in the State.
- (9) Other resources that might be leveraged to enhance reform efforts.

SECTION 10.23A.(c) The Commission shall be composed of 32 members as follows:

- (1) Six members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Six members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) Secretary of the Department of Health and Human Services (DHHS) or the Secretary's designee.
- (4) Director of the Housing Finance Agency or the Director's designee.
- (5) Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of DHHS or the Director's designee.
- (6) Director of the Division of Medical Assistance of DHHS or the Director's designee.
- (7) Two mental health consumers or their family representatives.
- (8) Two developmental disabilities consumers or their family representatives.

- (9) Two persons in the field of banking or representing a financial institution with housing finance expertise.
- (10) Two representatives of local management entities/managed care organizations.
- (11) A county government representative.
- (12) A North Carolina Association, Long Term Care Facilities representative.
- (13) A North Carolina Assisted Living Association representative.
- (14) A family care home representative.
- (15) A representative of group homes for adults with developmental disabilities.
- (16) A representative of group homes for individuals with mental illness.
- (17) Two representatives of service providers with proven experience in innovated housing and support services in the State.

The Secretary of the Department of Health and Human Services shall ensure adequate staff representation and support from the following: Division of Mental Health, Developmental Disabilities and Substance Abuse Services, Division of Aging and Adult Services, Division of Health Services Regulations, Division of Social Services, and other areas as needed.

The Commission shall appoint a Subcommittee on Housing composed of 15 members and a Subcommittee on Adult Care Homes.

The chairs shall jointly appoint members described in subdivisions (7) through (17) of this subsection and shall fill vacancies in those positions. The Commission shall meet at the call of the chairs. Members of the Commission shall receive per diem, subsistence, and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission may contract for consultant services as provided in G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may exercise all of the powers provided under G.S. 120-19 through G.S. 120-19.4 while in the discharge of its official duties. The funds needed to support the cost of the Commission's work shall be transferred from the Department of Health and Human Services upon request of the Legislative Services Director.

SECTION 10.23A.(d) Transitions to Community Living Fund. – There is established the Transitions to Community Living Fund (Fund) to facilitate implementation of the plans required in subsections (e) and (f) of this section.

SECTION 10.23A.(e) Of the amount appropriated to the Fund established in subsection (d) of this section, the sum of ten million three hundred thousand dollars (\$10,300,000) is appropriated to support the Department of Health and Human Services in its plan for transitioning individuals with severe mental illness and severe and persistent mental illness into community living arrangements, including establishing a rental assistance program. If the State executes an agreement with the U.S. Department of Justice (USDOJ) in response to the USDOJ findings dated July 28, 2011, or implements a plan in response to the USDOJ findings, these funds shall be used to implement the requirements of the first year of the agreement or the plan. In the event such an agreement is reached, a recurring appropriation will be necessary to fully implement it. The Department may issue temporary rules to implement this subsection.

SECTION 10.23A.(f) Of the amount appropriated to the Fund established in subsection (d) of this section, the sum of thirty-nine million seven hundred thousand dollars (\$39,700,000) is designated for implementation of the State's plan to provide temporary, short-term assistance to adult care homes as they transition into the State's Transitions to Community Living Initiative. The General Assembly recognizes that while transformation of the system is being undertaken, adult care homes provide stable and safe housing and care to many of North Carolina's frail and elderly population, and it is necessary during this time of

transition and transformation of the statewide system that the industry remain able to provide such care.

Upon certification by the Department of Health and Human Services, in consultation with a local adult care home resident discharge team, as defined in G.S. 131D-2.1(3a), that a resident who is no longer eligible to receive Medicaid reimbursable assistance and for whom a community placement has not yet been arranged cannot be safely and timely discharged into the community, the Department may make a monthly payment to the adult care home to support the facility's continuing provision of services to the resident. The monthly payment provided by the Department to an adult care home pursuant to this subsection shall not exceed six hundred ninety-four dollars (\$694) per month per resident for a period not to exceed three months for each resident. At the expiration of this three-month period, the monthly payment shall be reduced by twenty-five percent (25%) and shall not exceed five hundred twenty dollars and fifty cents (\$520.50) per month per resident. Upon implementation of the home-and community-based services program for elderly individuals typically served in special care or memory care units, to be developed by the Department under Medicaid State Plan 1915(i) authority pursuant to Section 10.9E of this act, the Department shall terminate all monthly payments pursuant to this subsection for continuing services provided to residents of special care or memory care units. The Department shall terminate all monthly payments pursuant to this subsection on June 30, 2013. Notwithstanding any other provision of this subsection, the Department is prohibited from making any monthly payments under this subsection to an adult care home for services provided to any resident during the pendency of an appeal by or on behalf of the resident under G.S. 108A-70.9A.

The Department of Health and Human Services shall administer these funds but may, as needed, contract with a vendor for administration.

SECTION 10.23A.(g) The Department shall report its progress in complying with subsection (e) of this section to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division no later than January 2, 2013, and submit a final report no later than April 1, 2013.

SECTION 10.23A.(h) The Commission shall issue an interim report by October 1, 2012, and a final plan to the 2013 General Assembly no later than February 1, 2013, at which time the Commission shall expire.

SECTION 10.23A.(i) Subsection (f) of this section expires on June 30, 2013, and any unobligated funds designated for the purposes of that subsection shall revert to the Transitions to Community Living Fund established in subsection (d) of this section.

SECTION 10.23A.(j) Nothing in subsection (d), (e), or (f) of this section is intended to create or shall be construed to create a right or entitlement for any individual, facility, or provider of services.

TELECOMMUNICATIONS RELAY SERVICE

SECTION 10.24.(a) G.S. 62-157(d1) reads as rewritten:

"(d1) The Department of Health and Human Services shall utilize revenues from the wireless surcharge collected under subsection (i) of this section to ~~fund the Regional Resource Centers within~~ support the Division of Services for the Deaf and the Hard of Hearing, in accordance with G.S. 143B-216.33, G.S. 143B-216.34, and Chapter 8B of the General Statutes."

SECTION 10.24.(b) G.S. 62-157(e) reads as rewritten:

"(e) Administration of Service. – The Department of Health and Human Services shall administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Department may contract out the provision of this service for four-year periods to one or more service providers, using the provisions of G.S. 143-129. The Department shall administer all programs and services, including the Regional Resource Centers within the Division of Services for the Deaf and the Hard of Hearing in accordance with G.S. 143B-216.33, G.S. 143B-216.34, and Chapter 8B of the General Statutes."

DHHS BLOCK GRANTS

SECTION 10.25.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS

Local Program Expenditures

Division of Social Services

01.	Work First Family Assistance	\$ 60,285,413
02.	Work First County Block Grants	83,386,330
03.	Work First Electing Counties	2,378,213
04.	Adoption Services – Special Children's Adoption Fund	2,026,877
05.	Child Protective Services – Child Welfare Workers for Local DSS	14,452,391
06.	Child Welfare Collaborative	754,115

Division of Child Development

07.	Subsidized Child Care Program	59,645,662
08.	Swap Child Care Subsidy	6,352,644

Division of Public Health

09.	Teen Pregnancy Initiatives	2,500,000
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DHHS Administration

10.	Division of Social Services	2,482,260
11.	Office of the Secretary	34,042

Transfers to Other Block Grants

Division of Child Development

12.	Transfer to the Child Care and Development Fund	71,773,001
13.	Transfer to Social Services Block Grant for Child Protective Services – Child Welfare Training in Counties	1,300,000
14.	Transfer to Social Services Block Grant for Child Protective Services	5,040,000

15.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,148,001
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS		\$ 316,558,949

**TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)
EMERGENCY CONTINGENCY FUNDS**

Local Program Expenditures

Division of Social Services

01.	Work First County Block Grants	\$ 11,066,985
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TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) EMERGENCY CONTINGENCY FUNDS		\$ 11,066,985
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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 \$4,148,001)	\$ 32,249,206
02.	Child Protective Services (Transfer from TANF)	5,040,000
03.	State In-Home Services Fund	2,101,113
04.	Adult Protective Services	1,346,047
05.	State Adult Day Care Fund	2,155,301
06.	Child Protective Services/CPS Investigative Services- Child Medical Evaluation Program (Carousel Center for Abused Children \$134,592)	744,047
07.	Special Children Adoption Incentive Fund	500,000
08.	Child Protective Services-Child Welfare Training for Counties (Transfer from TANF)	1,300,000
09.	Home and Community Care Block Grant (HCCBG)	1,834,077
10.	Maternity Homes	925,085
11.	Child Advocacy Centers	375,000
12.	Work First – Boys and Girls Clubs	2,452,500
13.	Food Banks	1,000,000

14.	Child Care Subsidy	2,598,319
15.	Guardianship	4,356,604
16.	UNC Cares Contract	247,920
16A.	Foster Care Services	1,497,138
Division of Public Health		
16B.	Tobacco Cessation	2,728,000
18.	Prevent Blindness	150,000
Division of Vocational Rehabilitation		
19.	Vocational Rehabilitation Services – Easter Seal Society/UCP Community Health Program	188,263
Division of Central Management and Support		
19A.	ALS Association Jim "Catfish" Hunter Chapter	400,000
DHHS Program Expenditures		
Division of Services for the Blind		
20.	Independent Living Program	3,633,077
21.	Accessible Electronic Information for Blind and Disabled Persons	75,000
Division of Health Service Regulation		
22.	Adult Care Licensure Program	411,897
23.	Mental Health Licensure and Certification Program	205,668
DHHS Administration		
24.	Division of Aging and Adult Services	624,454
25.	Division of Social Services	604,311
26.	Office of the Secretary/Controller's Office	138,058
27.	Division of Child Development	15,000
28.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	29,665
29.	Division of Health Service Regulation	128,562
TOTAL SOCIAL SERVICES BLOCK GRANT		\$ 68,257,174

LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT

Local Program Expenditures

Division of Social Services

01.	Low-Income Energy Assistance Program (LIEAP)	\$ 14,688,575
02.	Crisis Intervention Program (CIP)	33,255,130

Local Administration

Division of Social Services

03.	County DSS Administration	4,444,717
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DHHS Administration

04.	Office of the Secretary/DIRM	219,490
05.	Office of the Secretary/Controller's Office	9,779

Transfers to Other State Agencies

Department of Commerce

06.	Weatherization Program	8,464,517
07.	Heating Air Repair and Replacement Program (HARRP)	4,073,690
08.	Local Residential Energy Efficiency Service Providers – Weatherization	19,825
09.	Local Residential Energy Efficiency Service Providers – HARRP	180,041
10.	Department of Commerce Administration – Weatherization	19,825
11.	Department of Commerce Administration – HARRP	180,041

Department of Administration

12.	N.C. Commission on Indian Affairs	87,736
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**TOTAL LOW-INCOME HOME ENERGY ASSISTANCE
BLOCK GRANT****\$ 65,643,366**

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

Local Program Expenditures

Division of Child Development

01.	Child Care Services (Smart Start \$7,000,000)	\$ 154,695,081
02.	Electronic Tracking System	3,000,000
03.	Transfer from TANF Block Grant for Child Care Subsidies	71,773,001
04.	Quality and Availability Initiatives (TEACH Program \$3,800,000)	26,484,816

DHHS Administration

Division of Child Development

05.	DCDEE Administrative Expenses	6,000,000
06.	Local Subsidized Child Care Services Support (4% Administrative Allowance)	15,898,602

Division of Central Administration

07.	DHHS Central Administration – DIRM Technical Services	775,000
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**TOTAL CHILD CARE AND DEVELOPMENT FUND
BLOCK GRANT** \$ 278,626,500

MENTAL HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

01.	Mental Health Services – Adult	\$ 8,870,595
02.	Mental Health Services – Child	5,121,991
03.	Administration	100,000

TOTAL MENTAL HEALTH SERVICES BLOCK GRANT \$ 14,092,586

SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT

Local Program Expenditures

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

01.	Substance Abuse Services – Adult	\$ 15,328,802
02.	Substance Abuse Treatment Alternative for Women	6,050,300
03.	Substance Abuse – HIV and IV Drug	3,919,723
04.	Substance Abuse Prevention – Child	7,186,857
05.	Substance Abuse Services – Child	4,940,500
06.	Administration	454,000

Division of Public Health

07.	Risk Reduction Projects	575,654
08.	Aid-to-Counties	190,295

TOTAL SUBSTANCE ABUSE PREVENTION
AND TREATMENT BLOCK GRANT \$ 38,646,131

MATERNAL AND CHILD HEALTH BLOCK GRANT

Local Program Expenditures

Division of Public Health

01.	Children's Health Services	\$ 8,487,547
02.	Women's Health (March of Dimes \$350,000; Teen Pregnancy Prevention Initiatives \$650,000; Perinatal Quality Collaborative \$250,000; 17P Project \$47,000)	8,404,244
03.	Oral Health	42,268

DHHS Program Expenditures

Division of Public Health

04.	Children's Health Services	1,250,000
05.	Women's Health	136,628
06.	State Center for Health Statistics	164,318
07.	Quality Improvement in Public Health	2,774
08.	Health Promotion	89,374

DHHS Administration

Division of Public Health

09. Division of Public Health Administration 600,000

TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT \$ 19,259,071

PREVENTIVE HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

Division of Public Health

01. HIV/STD Prevention and Community Planning (Transfer from Social Services Block Grant) 180,470

DHHS Program Expenditures

Division of Public Health

02. State Center for Health Statistics 160,000

TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT \$ 340,470

COMMUNITY SERVICES BLOCK GRANT

Local Program Expenditures

Office of Economic Opportunity

01. Community Action Agencies \$ 18,075,488

02. Limited Purpose Agencies 1,004,194

DHHS Administration

03. Office of Economic Opportunity 1,004,194

TOTAL COMMUNITY SERVICES BLOCK GRANT \$ 20,083,876

GENERAL PROVISIONS

SECTION 10.25.(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 10.25.(c) Changes in Federal Fund Availability. – If the Congress of the United States increases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing 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 Office of State Budget and Management shall not approve funding for new programs or activities not appropriated in this section.

If the Congress of the United States decreases the federal fund availability for any of the Block Grants or contingency funds and other grants related to existing Block Grants administered by the Department of Health and Human Services from the amounts appropriated in this section, the Department shall develop a plan to adjust the block grants based on reduced federal funding.

Notwithstanding the provisions of this subsection, for the 2012-2013 fiscal year, increases in the federal fund availability for the Temporary Assistance to Needy Families (TANF) Block Grant shall be used for the North Carolina Child Care Subsidy program to pay for child care in four- or five-star rated facilities for four-year-old children.

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 10.25.(d) Appropriations from federal Block Grant funds are made for the fiscal year ending June 30, 2013, according to the schedule enacted for State fiscal year 2012-2013 or until a new schedule is enacted by the General Assembly.

SECTION 10.25.(e) All changes to the budgeted allocations to the Block Grants or contingency funds and other grants related to existing 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 the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations for review prior to implementing the changes. The report shall include an itemized listing of affected programs, including associated changes in budgeted allocations. All changes to the budgeted allocations to the Block Grants 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.

SECTION 10.25.(f) If the Preventive Health Services Block Grant is funded at the federal level and the State receives a block grant for Preventive Health Services, the 2011-2012 allocation plan shall remain in effect for the 2012-2013 fiscal year.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) FUNDS

SECTION 10.25.(g) The sum of eighty-three million three hundred eighty-six thousand three hundred thirty dollars (\$83,386,330) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall be used for Work First County Block Grants. The Division shall

certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

SECTION 10.25.(h) The sum of two million four hundred eighty-two thousand two hundred sixty dollars (\$2,482,260) appropriated in this section in TANF funds to the Department of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 10.25.(i) 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 TANF funds for the 2012-2013 fiscal year for child welfare improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

Counties shall maintain their level of expenditures in local funds for Child Protective Services' workers. Of the block grant funds appropriated for Child Protective Services' workers, the total expenditures from State and local funds for the 2012-2013 fiscal year shall not be less than the total expended from State and local funds for the 2011-2012 fiscal year.

SECTION 10.25.(j) The sum of two million twenty-six thousand eight hundred seventy-seven dollars (\$2,026,877) appropriated in this section in TANF funds to the Department of Health and Human Services, Special Children Adoption Fund, for the 2012-2013 fiscal year shall be used in accordance with G.S. 108A-50.2, as enacted in Section 10.48 of S.L. 2009-451. 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 10.25.(k) The sum of seven hundred fifty-four thousand one hundred fifteen dollars (\$754,115) appropriated in this section to the Department of Health and Human Services in TANF funds for the 2012-2013 fiscal year shall be used to continue support for the Child Welfare Collaborative.

SOCIAL SERVICES BLOCK GRANT

SECTION 10.25.(l) The sum of thirty-two million two hundred forty-nine thousand two hundred six dollars (\$32,249,206) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall be used for County Block Grants. The Division shall certify these funds in the appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures.

SECTION 10.25.(m) The sum of one million three hundred thousand dollars (\$1,300,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2012-2013 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) Provide training for residential child caring facilities.
- (3) Provide for various other child welfare training initiatives.

SECTION 10.25.(n) 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.

SECTION 10.25.(o) Social Services Block Grant funds appropriated for the Special Children's Adoption Incentive Fund will require a fifty percent (50%) local match.

SECTION 10.25.(p) The sum of five million forty thousand dollars (\$5,040,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year shall be allocated to the Department of Health and Human Services, Division of Social Services. The Division shall allocate these funds to local departments of social services to replace the loss of Child Protective Services State funds that are currently used by county government to pay for Child Protective Services staff at the local level. These funds shall be used to maintain the number of Child Protective Services workers throughout the State. These Social Services Block Grant funds shall be used to pay for salaries and related expenses only and are exempt from 10A NCAC 71R .0201(3) requiring a local match of twenty-five percent (25%).

SECTION 10.25.(q) The sum of two million four hundred fifty-two thousand five hundred dollars (\$2,452,500) appropriated in this section to the Department of Health and Human Services, Division of Social Services, in the Social Services Block Grant for Boys and Girls Clubs for the 2012-2013 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 Social Services 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 facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs and encourage them to submit joint applications for the funds if appropriate. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.25.(r) The sum of nine hundred twenty-five thousand eighty-five dollars (\$925,085) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Social Services, shall be used for maternity homes. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.25.(s) The sum of one hundred fifty thousand dollars (\$150,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Public Health, shall be allocated to Prevent Blindness North Carolina to be used for direct service programs. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.25.(s1) The sum of four hundred thousand dollars (\$400,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Central Management and Support, shall be allocated to the ALS Association, Jim "Catfish" Hunter Chapter, to be used to provide patient care and community services to persons with ALS and their families. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.25.(t) The sum of seventy-five thousand dollars (\$75,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Services for the Blind, shall be used to provide accessible electronic information for blind and disabled persons. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.25.(u) The sum of three hundred seventy-five thousand dollars (\$375,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Social Services, shall be used to continue support for the Child Advocacy Centers and are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.25.(v) Social Services Block Grant funds allocated for the 2012-2013 fiscal year for child medical evaluations and the Carousel Center for Abused Children are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.25.(w) The sum of one million dollars (\$1,000,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Social Services, shall be allocated to North Carolina Food Bank agencies to be used to purchase and distribute food staples for emergency food assistance. These funds are exempt from the provisions of 10A NCAC 71R .0201(3).

SECTION 10.25.(w1) The sum of four million three hundred fifty-six thousand six hundred four dollars (\$4,356,604) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Divisions of Social Services and Aging and Adult Services, shall be used for guardianship services pursuant to Chapter 35A of the General Statutes. The Department may expend funds appropriated in this section to support (i) existing corporate guardianship contracts during the 2012-2013 fiscal year and (ii) guardianship contracts transferred to the State from local management entities or managed care organizations during the 2012-2013 fiscal year.

LOW-INCOME HOME ENERGY ASSISTANCE BLOCK GRANT

SECTION 10.25.(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.

SECTION 10.25.(y) The sum of fourteen million six hundred eighty-eight thousand five hundred seventy-five dollars (\$14,688,575) appropriated in this section in the Low-Income Home Energy Assistance Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Social Services, shall be used for energy assistance payments for the households of (i) elderly persons age 60 and above with income up to one hundred thirty percent (130%) of the federal poverty level and (ii) disabled persons eligible for services funded through the Division of Aging and Adult Services. County departments of social services shall submit to the Division of Social Services an outreach plan for targeting households with 60-year-old household members no later than August 1 of each year.

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

SECTION 10.25.(z) 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 10.25.(aa) 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.

MATERNAL AND CHILD HEALTH BLOCK GRANT

SECTION 10.25.(bb) 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 2012-2013 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) and (4a). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 10.25.(cc) 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

B.R.I.D.G.E. YOUTHFUL OFFENDERS/PRIORITY AND REPORTING

SECTION 11.1.(a) The Division of Adult Correction of the Department of Public Safety shall give priority to the B.R.I.D.G.E. Youthful Offenders Program operated in cooperation with the North Carolina Forest Service when assigning youthful offenders from the Western Youth Institution to work programs.

SECTION 11.1.(b) The North Carolina Forest Service shall submit an annual report on the B.R.I.D.G.E. Youthful Offenders Program no later than October 1 of each year beginning October 1, 2012, to the Fiscal Research Division, the Chairs of the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources, the Chairs of the House Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, and the Joint Legislative Oversight Committee on Justice and Public Safety. The report shall include the following information for the prior fiscal year:

- (1) The number of youthful offenders within the custody of the Division of Adult Correction eligible for B.R.I.D.G.E.
- (2) The number of youthful offenders participating in B.R.I.D.G.E.
- (3) The average daily participation in B.R.I.D.G.E.
- (4) The average duration of participation in B.R.I.D.G.E.
- (5) Summary of activities of B.R.I.D.G.E. participants.

FOREST FIRES/ANNUAL REPORT

SECTION 11.2. Article 75 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"§ 106-911. Annual report on wildfires.

No later than October 1 of each year, beginning October 1, 2012, the Commissioner shall submit a written report on wildfires in the State to the chairs of the House Appropriations Subcommittee on Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division of the General Assembly. The report shall include the following information for all major or project wildfires during the prior fiscal year:

- (1) The date, location, and impacts (property damage and any casualties) from the wildfire.
- (2) The following data for firefighters and related support personnel involved in fighting the wildfire:
 - a. Total overtime hours worked.
 - b. Total compensation paid for overtime.
 - c. The portion of compensation paid that was reimbursed to the State.
- (3) The fiscal impact of the wildfire, including total costs, reimbursable costs, and costs incurred by the State."

CLARIFY REQUIREMENTS TO RECEIVE NC AGRICULTURE COST SHARE PROGRAM FUNDS OR AGRICULTURE WATER RESOURCES ASSISTANCE

SECTION 11.2A.(a) G.S. 106-850(b) reads as rewritten:

"(b) The program shall be subject to the following requirements and limitations:

...

(10) To be eligible for cost share funds under this program, each applicant must establish that he or she is engaged in farming by providing any of the following to the Soil and Water Conservation Commission with his or her ~~application a copy of the applicant's federal tax Schedule F (Form 1040) for the most recent tax year showing the applicant's profit or loss from farming-application:~~

- a. A copy of the farm owner's or operator's federal tax Schedule F (Form 1040) or an equivalent form for the most recent tax year showing the owner's or operator's profit or loss from farming.
- b. A copy of the farm's agricultural exemption certificate issued to the farm owner or operator by the Department of Revenue.
- c. For forestland actively engaged in the commercial growing of trees under a sound management program as defined in G.S. 105-277.2(6), a copy of the sound forest management plan described in G.S. 105-277.3(g).

(11) In extraordinary circumstances, the Commission may permit an applicant to establish that he or she is engaged in farming with an alternate form of documentation if the farm has a conservation plan that meets the statutory purposes of the program."

SECTION 11.2A.(b) G.S. 139-60 reads as rewritten:

"§ 139-60. **Agricultural Water Resources Assistance Program.**

...

(c1) To be eligible for assistance under this program, each applicant must establish that he or she is engaged in farming by providing to the Soil and Water Conservation Commission with his or her ~~application a copy of the applicant's federal tax Schedule F (Form 1040) for the most recent tax year showing the applicant's profit or loss from farming-application:~~

- (1) A copy of the farm owner's or operator's federal tax Schedule F (Form 1040) or an equivalent form for the most recent tax year showing the owner's or operator's profit or loss from farming.
- (2) A copy of the farm's agricultural exemption certificate issued to the farm owner or operator by the Department of Revenue.
- (3) For forestland actively engaged in the commercial growing of trees under a sound management program as defined in G.S. 105-277.2(6), a copy of the sound forest management plan described in G.S. 105-277.3(g).

(c2) In extraordinary circumstances, the Commission may permit an applicant to establish that he or she is engaged in farming with an alternate form of documentation if the farm has a conservation plan that meets the statutory purposes of the program.

...."

SOUTHEASTERN NORTH CAROLINA AGRICULTURAL CENTER AND FARMERS MARKET/STUDY OPTIONS

SECTION 11.3.(a) The Department of Agriculture and Consumer Services shall study the operating model of the Southeastern North Carolina Agricultural Center and Farmers Market and recommend alternative operating models. The alternative operating models should be evaluated based on a goal of limiting subsidies from State funds in support of facility operations to no more than fifty percent (50%) of the facility's operating budget. At a minimum, the Department should consider the following alternatives:

- (1) Changing the services provided, with particular emphasis on options for the retail farmers market.
- (2) Pooling staff, resources, and profits between the Center and other similar facilities operated by the Department.
- (3) Contracting with a private entity to operate the Center or some portion of the Center's operations.
- (4) If there is no operating model under which continued operation of the Center is viable with State subsidies limited to fifty percent (50%) or less of the Center's operating budget, options for closure of the Center and alternative uses of the property, including transfer of ownership of some or all of the facilities of the Center to a unit of local government.

SECTION 11.3.(b) The Department shall report its findings and recommendations to the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division on or before February 1, 2013.

RESEARCH STATIONS NONREVERTING FUND

SECTION 11.4. Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"§ 106-6.3. Create special revenue fund for research stations.

The Research Stations Fund is established as a special revenue fund within the Department of Agriculture and Consumer Services, Division of Research Stations. This Fund shall consist of receipts from the sale of commodities produced on the Department's research stations and any gifts, bequests, or grants for the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of any fiscal year shall not revert. The Department may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in research stations operated by the Department's Research Station Division."

PART XII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

WATER INFRASTRUCTURE FUND CLOSING FEE CONFORMING CHANGES

SECTION 12.01. G.S. 159G-24 reads as rewritten:

"§ 159G-24. Fee imposed on a loan or grant from ~~Wastewater Reserve or Drinking Water Reserve~~ Water Infrastructure Fund.

(a) Amount. – A loan awarded from the ~~Wastewater Reserve or the Drinking Water Reserve~~ Water Infrastructure Fund is subject to a fee of two ~~and one-half percent (2 ½%)~~ (2%) of the loan. A grant awarded from the ~~Wastewater Reserve or the Drinking Water Reserve~~ Water Infrastructure Fund is subject to a fee of one and one-half percent (1 ½%) of the grant. The fee is payable when a loan or grant is awarded.

(b) Departmental Receipt. – The fee on a loan from the ~~Wastewater Reserve or the Drinking Water Reserve~~ Water Infrastructure Fund is a departmental receipt and must be applied to the Department's and the Local Government Commission's costs in administering loans from these Reserves. The Department and the Local Government Commission must determine how to allocate the fee receipts between their agencies. The fee on a grant from the ~~Wastewater Reserve or the Drinking Water Reserve~~ Water Infrastructure Fund is a departmental receipt of the Department and must be applied to the Department's costs in administering grants from these Reserves."

DENR POSITIONS TO STAFF FOSSIL FUEL OVERSIGHT BODY

SECTION 12.1. Should Senate Bill 820 of the 2012 Regular Session of the General Assembly become law and require the Department of Environment and Natural Resources to provide staff to the Mining and Energy Commission, then the Department may fund staff positions using savings from reclassifying and consolidating salaries, benefits, and associated operating costs from vacant positions and shall fill these reclassified and consolidated positions in a timely manner in order to provide support for the Mining and Energy Commission.

DENR TO CENTRALIZE OVERSIGHT OF ITS REGIONAL OFFICES

SECTION 12.2.(a) The Department of Environment and Natural Resources shall centralize and expand its oversight of the Department's regional offices by taking the following actions:

- (1) The Department shall create a mission statement for the regional offices.
- (2) In order to gather comparative data across the regional offices measuring their performance in carrying out their mission, the Department shall expand its existing performance measures pertinent to customer service delivery and process consistency. The expanded performance measures shall include timelines and milestones.
- (3) The Department shall implement a new customer survey during the 2012-2013 fiscal year and use the findings of the survey to craft future goals for addressing customer service concerns. In order to consistently track customer service data, the survey shall be repeated every other year.
- (4) The Department shall conduct a review of its regional offices and divisions to identify best practices for ensuring consistency across the Department and create a plan for implementing those best practices across regional offices and divisions.

SECTION 12.2.(b) The Department shall report no later than February 1, 2013, to the House Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division regarding (i) its progress, findings, and recommendations regarding the requirements of this section and (ii) its progress in establishing and implementing findings and recommendations regarding its operations from the public listening sessions conducted by the Department in 2011.

DRINKING WATER STATE REVOLVING FUND

SECTION 12.3. Notwithstanding G.S. 159G-22, the Department of Environment and Natural Resources may transfer State funds from the Drinking Water Reserve to the Drinking Water State Revolving Fund for the 2012-2013 fiscal year. The funds shall be used to match maximum available federal grant moneys authorized by section 1453 of the federal Safe Drinking Water Act of 1996, 42 U.S.C. § 300j-12, as amended.

TRANSFER GEODETIC SURVEY SECTION FROM DENR TO THE DIVISION OF EMERGENCY MANAGEMENT OF THE DEPARTMENT OF PUBLIC SAFETY

SECTION 12.4.(a) All functions, powers, duties, and obligations previously vested in the Geodetic Survey Section of the Division of Land Resources of the Department of Environment and Natural Resources are transferred to and vested in the Division of Emergency Management of the Department of Public Safety by a Type I transfer, as defined in G.S. 143A-6.

SECTION 12.4.(b) G.S. 102-1.1 reads as rewritten:

"§ 102-1.1. Name and description in relation to 1983 North American Datum.

From and after the date and time the North Carolina Geodetic Survey Section in the ~~Division of Land Resources of the Department of Environment and Natural Resources~~ Division

of Emergency Management of the Department of Public Safety receives from the National Geodetic Survey, official notice of a complete, published definition of the North American Datum of 1983 including the State plane coordinate constants applicable to North Carolina, the official survey base for North Carolina shall be a system of plane coordinates to be known as the "North Carolina Coordinate System of 1983," said system being defined as a Lambert conformal projection of the "Geodetic Reference System (GRS 80 Ellipsoid)" having a central meridian of 79° – 00' west from Greenwich and standard parallels of latitude of 34° – 20' and 36° – 10' north of the equator, along which parallels the scale shall be exact. All coordinates of the system are expressed in metres, the x coordinate being measured easterly along the grid and the y coordinate being measured northerly along the grid. The U.S. Survey Foot, 1 meter = 39.37 inches or 3.2808333333 feet, shall be used as a conversion factor. The origin of the coordinates is hereby established on the meridian 79° – 00' west from Greenwich at the intersection of the parallels 33° – 45' north latitude, such origin being given the coordinates x = 609,601.22 metres, y = 0 metres. The precise position of said system shall be as marked on the ground by triangulation or traverse stations or monuments established in conformity with the standards adopted by the National Geodetic Survey for first- and second-order work, whose geodetic positions have been rigidly adjusted on the North American Datum of 1983, and whose plane coordinates have been computed on the system defined. Whenever plane coordinates are used in the description or identification of surface area or location within this State, the coordinates shall be identified as "NAD 83", indicating North American Datum of 1983, or as "NAD 27", indicating North American Datum of 1927."

SECTION 12.4.(c) G.S. 102-8 reads as rewritten:

"§ 102-8. Administrative agency.

The administrative agency of the North Carolina Coordinate System shall be the ~~Department of Environment and Natural Resources~~ Department of Public Safety through its appropriate division hereinafter called the "agency."

SECTION 12.4.(d) G.S. 102-10 reads as rewritten:

"§ 102-10. Prior work.

The system of stations, monuments, traverses, computations, and other work which has been done or is under way in North Carolina by the so-called North Carolina Geodetic Survey, under the supervision of the United States Coast and Geodetic Survey, is, where consistent with the provisions of this Chapter, hereby made a part of the North Carolina Coordinate System. The surveys, notes, computations, monuments, stations, and all other work relating to the coordinate system, which has been done by said North Carolina Geodetic Survey, under the supervision of and in cooperation with the United States Coast and Geodetic Survey and federal relief agencies, hereby are placed under the direction of, and shall become the property of, the administrative agency. All persons or agencies having in their possession any surveys, notes, computations, or other data pertaining to the aforementioned coordinate system, shall turn over to the ~~Department of Environment and Natural Resources~~ Public Safety such data upon request."

SECTION 12.4.(e) G.S. 102-12 reads as rewritten:

"§ 102-12. Control system map.

The agency shall prepare for publication and cause to be ~~published before July 1, 1962,~~ published a map or maps setting forth the location of monuments for both horizontal and vertical control, together with such other pertinent data as the agency may direct for implementation of the North Carolina Coordinate System. The agency shall furnish such map or maps to any person or may make such charge as will defray the expense of printing and distribution. It shall be the responsibility of the agency to maintain this map, make revisions as often as necessary to provide up-to-date information and furnish up-to-date copies to the register of deeds of each county in the State."

SECTION 12.4.(f) G.S. 47-30(f) reads as rewritten:

"§ 47-30. Plats and subdivisions; mapping requirements.

...
 (f) Plat to Contain Specific Information. – Every plat shall contain the following specific information:

- ...
 (9) Where the plat is the result of a survey, one or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a horizontal control monument of some United States or State Agency survey system, such as the North Carolina Geodetic Survey where the monument is within 2,000 feet of the subject property. Where the North Carolina Grid System coordinates of the monument are on file in the North Carolina Geodetic Survey Section in the ~~Division of Land Resources of the Department of Environment and Natural Resources~~, Division of Emergency Management of the Department of Public Safety, the coordinates of both the referenced corner and the monuments used shall be shown in X (easting) and Y (northing) coordinates on the plat. The coordinates shall be identified as based on "NAD 83," indicating North American Datum of 1983, or as "NAD 27," indicating North American Datum of 1927. The tie lines to the monuments shall also be sufficient to establish true north or grid north bearings for the plat if the monuments exist in pairs. Within a previously recorded subdivision that has been tied to grid control, control monuments within the subdivision may be used in lieu of additional ties to grid control. Within a previously recorded subdivision that has not been tied to grid control, if horizontal control monuments are available within 2,000 feet, the above requirements shall be met; but in the interest of bearing consistency with previously recorded plats, existing bearing control should be used where practical. In the absence of grid control, other appropriate natural monuments or landmarks shall be used. In all cases, the tie lines shall be sufficient to accurately reproduce the subject lands from the control or reference points used.

...."

SECTION 12.4.(g) Notwithstanding G.S. 147-33.83, the North Carolina Geodetic Survey Section shall continue to provide free of charge to the Department of Environment and Natural Resources the services provided by the Section to the Department on or prior to the effective date of this act, including the following:

- (1) Surveying assistance and expertise, including all of the following:
 - a. Review of survey plats related to development proposals, remediation activities, and redevelopment of contaminated sites.
 - b. Establishment of oyster lease boundaries.
 - c. Surveys of submerged lands.
 - d. Survey activities required to establish the location of mean high water.
- (2) Providing surveying assistance and expertise to the Department of Justice related to DENR cases, including expert testimony in administrative contested cases or judicial proceedings.
- (3) Providing technical training and assistance to DENR agencies in surveying and in the use of GPS and GPS software.
- (4) Reviewing proposed purchases of GPS equipment by DENR agencies.
- (5) Surveying lands managed by or lands proposed for acquisition by DENR agencies.

SECTION 12.4.(h) The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the transfer under this section. The Revisor of Statutes may, where necessitated by this section, correct any reference in the General Statutes and make any other conforming changes.

SECTION 12.4.(i) Any references in this act to the North Carolina Geodetic Survey Section of the Division of Land Resources of the Department of Environment and Natural Resources shall be construed to refer to the North Carolina Geodetic Survey Section of the Division of Emergency Management of the Department of Public Safety.

PROHIBIT THE CONSTRUCTION OF NEW PIERS/SATELLITE AREAS

SECTION 12.5.(a) G.S. 143B-289.44(b) reads as rewritten:

"(b) Fund. – The North Carolina Aquariums Fund is hereby created as a special and nonreverting fund. The North Carolina Aquariums Fund shall be used for repair, renovation, expansion, maintenance, educational exhibit construction, and operational expenses at existing aquariums, to pay the debt service and lease payments related to the financing of expansions of ~~aquariums, including other relevant satellite areas,~~aquariums, and to match private funds that are raised for these purposes."

SECTION 12.5.(b) Notwithstanding G.S. 143B-289.44(b), as rewritten by subsection (a) of this section, the North Carolina Aquariums Fund may continue to be used for the North Carolina Aquarium Pier at Nags Head.

SECTION 12.5.(c) Part 5C of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-289.45. Satellite areas prohibited absent General Assembly authorization.

Notwithstanding any other provision of law, State funds shall not be used for any of the following purposes unless specifically authorized by the General Assembly:

- (1) Construction of any satellite area.
- (2) Commencement of any capital project in connection with the construction or acquisition of any satellite area.
- (3) Operation of any satellite area.

For purposes of this section, the term "satellite area" means any property or facility that is to be operated by the Division of North Carolina Aquariums that is located somewhere other than on the site of the aquariums at Pine Knoll Shores, Roanoke Island, and Fort Fisher."

SECTION 12.5.(d) Notwithstanding G.S. 143B-289.45, as enacted by subsection (c) of this section, the Division of North Carolina Aquariums may continue to operate the North Carolina Aquarium Pier at Nags Head.

SECTION 12.5.(d1) Grants for projects with partnering local municipalities awarded prior to the effective date of this act may be transferred to the local partnering municipality for completion or fulfillment.

SECTION 12.5.(e) This section is effective when it becomes law.

WILDLIFE RESOURCES COMMISSION BUDGET

SECTION 12.6. The Office of State Budget and Management, the State Controller, the Fiscal Research Division, and the Wildlife Resources Commission shall jointly implement, beginning with the 2013-2014 fiscal year, the use of Budget Code 14350 for budgeting the expenditures and receipts of any Wildlife Resources Commission programs that utilize General Fund appropriations. Receipts from any source utilized to support programs that receive General Fund appropriations shall be expended from Budget Code 14350. It is the intent of the General Assembly that the budgeting change required by this section not adversely impact current federal funding or future funding eligibility. The Governor's Continuation Budget for the 2013-2014 fiscal year shall present the Wildlife Resources Commission operating budget in Budget Code 14350.

category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

"SECTION 14.1.(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; ~~up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance;~~ up to ~~eight million dollars (\$8,000,000)~~ seven million two hundred thousand dollars (\$7,200,000) may be used for Scattered Site Housing; up to ~~seven million two hundred ten thousand dollars (\$7,210,000)~~ seven million dollars (\$7,000,000) may be used for Economic Development; up to ~~three million dollars (\$3,000,000)~~ two million five hundred thousand dollars (\$2,500,000) may be used for Small Business/Entrepreneurship; up to ~~five million dollars (\$5,000,000)~~ four million five hundred thousand dollars (\$4,500,000) shall be used for NC Catalyst; up to ~~nineteen million seven hundred forty thousand dollars (\$19,740,000)~~ twenty million three hundred thousand dollars (\$20,300,000) may be used for ~~Infrastructure;~~ Infrastructure; up to ~~six hundred thousand dollars (\$600,000) may be used for Capacity Building.~~ 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 14.1.(e) 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.

"SECTION 14.1.(f) By ~~September 1, 2011,~~ September 1, 2012, the Division of Community Assistance, Department of Commerce, shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of Community Development Block Grant Funds appropriated in the prior fiscal year. The report shall include the following:

- (1) A discussion of each of the categories of funding and how the categories were selected, including information on how a determination was made that there was a statewide need in each of the categories.
- (2) Information on the number of applications that were received in each category and the total dollar amount requested in each category.
- (3) A list of grantees, including the grantee's name, county, category under which the grant was funded, the amount awarded, and a narrative description of the project.

"SECTION 14.1.(g) For purposes of this section, eligible activities under the category of Infrastructure in subsection (a) of this section are limited to the installation of public water or sewer lines and improvements to water or sewer treatment plants that have specific problems

such as being under moratoriums or special orders of consent. Notwithstanding the provisions of subsection (e) of this section, funds allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated to any other category."

DEPARTMENT OF COMMERCE/TRAVEL EXPENSES

SECTION 13.2. The Department of Commerce shall not provide per diem, subsistence, or travel allowances for any State employee who is not an employee of the Department. Nothing in this section shall prohibit a member of a State board or commission, State officer or employee, or member of the General Assembly who travels on official business with an employee of the Department of Commerce from receiving per diem, subsistence, and travel allowances from their respective board or commission, department, or agency at the rate set forth in G.S. 138-5, 138-6, and 120-3.1.

NC SMALL BUSINESS CONTRACTOR AUTHORITY/REPORTING REQUIREMENT

SECTION 13.3. G.S. 143B-472.102 reads as rewritten:

"§ 143B-472.102. **Authority creation; powers.**

...

(j) Powers and Duties. – The Authority has the following powers and duties:

...

(9) To report quarterly to the Joint Legislative Commission on Governmental Operations on the activities of the Authority, including the amount of rates, sureties, and bonds. The Authority shall comply with the provisions of this subdivision only in the fiscal years in which funds are appropriated by the State to the Authority to perform the powers and duties authorized in this Part.

...."

DEPARTMENT OF COMMERCE/CHANGES TO STATUTORY REPORTING REQUIREMENTS

SECTION 13.4.(a) G.S. 143B-434.01 reads as rewritten:

"§ 143B-434.01. **Comprehensive Strategic Economic Development Plan.**

...

(e) Environmental Scan. – The first step in developing the Plan shall be to develop an environmental scan based on the input from economic development parties and the public and on information about the economic environment in North Carolina. To prepare the scan, the Board shall gather the following ~~information. Thereafter, the information shall be updated periodically.~~ information and ensure that the information is updated periodically. The updated information may be provided in whatever format and through whatever means is most efficient.

...

(f) ~~Needs Assessment. – The Board, using data from the public input sessions and the environmental scan, shall prepare an assessment of economic development strengths, weaknesses, threats, and opportunities within the State by Region and by county. An assessment shall also be conducted of each county to determine distressed areas existing within the county. The assessment will include the identification of key development issues within each geographic area and options available to address each issue.~~

...

(k) ~~Annual Report. Evaluation. – The Plan shall contain a section devoted to measuring results, to be called "An Annual Report on Economic Development for the State of North Carolina". The Annual Report shall contain a comparison of actual results with~~ The Board shall annually evaluate the State's economic performance based upon the statistics listed in this subsection and upon the Board's stated goals and objectives in its Plan. and significant and meaningful statistics to allow policymakers to adjust strategy and tactics as necessary to

~~achieve the formulated goals. The statistics upon which the evaluation is made should be available to policymakers. The information may be provided in whatever format and through whatever means is most efficient.~~

~~The Annual Report shall break down data by Regions and counties including:~~

...

~~(9) An evaluation of the State's economic performance as indicated by the above statistics with the goals and objectives outlined in the Plan.~~

(l) Accountability. – The Board shall make all data, plans, and reports available to the ~~General Assembly and Assembly~~, the Joint Legislative Commission on Governmental ~~Operations~~ Operations, the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Senate Appropriations Committee on Natural and Economic Resources, and the House of Representatives Appropriations Subcommittee on Natural and Economic Resources at appropriate times and upon request. The Board shall prepare and make available on an annual basis public reports on each of the major sections of the Plan and the Annual Report indicating the degree of success in attaining each development objective."

SECTION 13.4.(b) G.S. 143B-435.1 reads as rewritten:

"§ 143B-435.1. Clawbacks.

...

(d) Report. – ~~The~~ By April 1 and October 1 of each year, the Department of Commerce shall report to the Revenue Laws Study ~~Committee by April 1 and October 1 of each year~~ Committee, the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly on (i) all clawbacks that have been triggered under ~~programs it administers~~ the One North Carolina Fund established pursuant to G.S. 143B-437.71, the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52, Job Maintenance and Capital Development Fund established pursuant to G.S. 143B-437.012, the Industrial Development Fund and Utility Account established pursuant to G.S. 143B-437.01, and the Site Infrastructure Fund established pursuant to G.S. 143B-437.02 and (ii) its progress on obtaining repayments. The report must include the name of each business, the event that triggered the clawback, and the amount forfeited or to be repaid."

SECTION 13.4.(c) G.S. 143B-437.01(c) and (c1) are repealed.

SECTION 13.4.(d) G.S. 143B-437.07 reads as rewritten:

"§ 143B-437.07. Economic development grant reporting.

(a) Report. – The Department of Commerce must publish on or before ~~March~~ October 1 of each year the information required by this subsection, itemized by business entity, for each business or joint private venture to which the State has, in whole or in part, granted one or more economic development incentives during the previous ~~five calendar years~~. ~~The Department must provide the General Assembly with updated supplemental information consistent with this subsection on a quarterly basis in the form and manner requested by the General Assembly fiscal year.~~ The information in the report must include all of the following:

...

(2) The date of the award and the date of the award agreement.

...

(b) ~~Online Posting~~ Posting/Written Submission. – The Department of Commerce must post on its Internet Web site a summary of the report compiled in subsection (a) of this section. The summary report must include the information required by subdivisions (2), (9), (11), and (12) of subsection (a) of this section. By October 1 of each year, the Department of Commerce must submit the written report required by subsection (a) of this section to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly.

(c) Economic Development Incentive. – An economic development incentive includes any grant ~~program administered by the Department of Commerce that disburses or awards monies to businesses. Examples of these grant programs include the~~ from the following programs: Job Development Investment Grant Program, Program; the Job Maintenance and Capital Development Fund, Fund; One North Carolina Fund, Fund; and the Industrial Development Fund, including the Utility Account. The State also incents economic development through the use of tax expenditures in the form of tax credits and refunds. The Department of Revenue must report annually on these statutory economic development incentives, as required under G.S. 105-256."

SECTION 13.4.(e) G.S. 143B-437.08 is amended by adding a new subsection to read:

"§ **143B-437.08. Development tier designation.**

...

(k) Report. – By November 30 of each year, the Secretary of Commerce shall submit a written report to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly on the tier rankings required by subsection (c) of this section, including a map of the State whereupon the tier ranking of each county is designated."

SECTION 13.4.(f) G.S. 143B-437.55(d) is repealed.

ALIGN ONE NORTH CAROLINA FUND WITH JDIG PROGRAM

SECTION 13.6.(a) The General Assembly acknowledges the importance of ongoing economic growth and development in this State. To that end, it is the intent of the General Assembly to fund the commitments of the One North Carolina Fund, as evidenced by the General Assembly's past and recurring appropriations to the Fund and as set forth in this section, and to establish a funding structure that aligns with the funding structure that is and has been used with the Job Development Investment Grant Program. The General Assembly has continued this level of commitment while remaining fiscally responsible in addressing the other critical, high-priority needs of the State.

SECTION 13.6.(b) G.S. 143B-437.71 is amended by adding a new subsection to read:

"(b1) Awards. – The amounts committed in Governor's Letters issued in a single fiscal year may not exceed fourteen million dollars (\$14,000,000)."

SECTION 13.6.(c) G.S. 143B-437.72(b) is amended by adding a new subdivision to read:

"(b) Company Performance Agreements. – An agreement between a local government and a grantee business must contain the following provisions:

- (1) A commitment to create or retain a specified number of jobs within a specified salary range at a specific location and commitments regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained.
- (2) A commitment to provide proof satisfactory to the local government and the State of new jobs created or existing jobs retained and the salary level of those jobs.
- (3) A provision that funds received under the agreement may be used only for a purpose specified in G.S. 143B-437.71(b).
- (4) A provision allowing the State or the local government to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this Part.
- (5) A provision establishing the method for determining compliance with the agreement.

- (6) A provision establishing a schedule for disbursement of funds under the agreement that allows disbursement of funds only in proportion to the amount of performance completed under the agreement.
- (6a) A provision establishing that a business that has completed performance and become entitled to a final disbursement of funds under the agreement must timely request, in writing to the Secretary of Commerce, a disbursement of funds within not more than one year from the date of completed performance or forfeit the disbursement.
- (6b) A provision establishing that a business that anticipates becoming entitled to a disbursement of funds under the agreement shall notify the Secretary of Commerce of the potential payment no later than March 1 of the fiscal year preceding the fiscal year in which the performance is anticipated to be completed.
- (7) A provision requiring recapture of grant funds if a business subsequently fails to comply with the terms of the agreement.
- (8) Any other provision the State or the local government finds necessary to ensure the proper use of State or local funds."

SECTION 13.6.(d) G.S. 143B-437.74 reads as rewritten:

"§ 143B-437.74. ~~Reports.~~Reports; study.

(a) Reports. – The Department of Commerce shall publish a report on the use of funds in the One North Carolina Fund at the end of each fiscal quarter. The report shall contain information on the commitment, disbursement, and use of funds allocated under the One North Carolina Fund. The report is due no later than one month after the end of the fiscal quarter and must be submitted to the following:

- (1) The Joint Legislative Commission on Governmental Operations.
- (2) The chairs of the House of Representatives and Senate Finance Committees.
- (3) The chairs of the House of Representatives and Senate Appropriations Committees.
- (4) The Fiscal Research Division of the General Assembly.

(b) Study. – The Department of Commerce shall conduct a study to determine the minimum funding level required to implement the One North Carolina Fund successfully. The Department shall report the results of this study to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than April 1 of each year."

SECTION 13.6.(e) Part 2H of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-437.75. Cash flow requirements.

Notwithstanding any other provision of law, moneys allocated from the One North Carolina Fund shall be budgeted and funded on a cash flow basis. The Office of State Budget and Management shall periodically transfer funds from the One North Carolina Fund established pursuant to G.S. 143B-437.71 to the Department of Commerce in an amount sufficient to satisfy Fund allocations to be transferred pursuant to G.S. 143B-437.72 to be paid during the fiscal year."

SECTION 13.6.(f) Article 9 of Chapter 143C of the General Statutes is amended by adding a new section to read:

"§ 143C-9-8. One North Carolina Fund Reserve.

(a) The State Controller shall establish a reserve in the General Fund to be known as the One North Carolina Fund Reserve. Funds from the One North Carolina Fund Reserve shall not be expended or transferred except in accordance with G.S. 143B-437.75.

(b) It is the intent of the General Assembly to appropriate funds annually to the One North Carolina Fund Reserve established in this section in amounts sufficient to meet the anticipated cash requirements for each fiscal year of the One North Carolina Fund Program established pursuant to G.S. 143B-437.71."

SECTION 13.6.(g) G.S. 143B-437.52 reads as rewritten:

"§ 143B-437.52. **Job Development Investment Grant Program.**

...

(b) ~~Cap and Priority.~~ – ~~The maximum number of grants the Committee may award in each calendar year is 25.~~ In selecting between applicants, a project that is located in an Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project that is not located in a certified Eco-Industrial Park.

(c) ~~Ceiling.~~ ~~Awards.~~ – The maximum amount of total annual liability for grants awarded in any single calendar year under this Part, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, ~~may not exceed~~ fifteen million dollars (\$15,000,000). No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during a single calendar year, could cause the State's potential total annual liability for grants awarded in a single calendar year to exceed this amount.

...."

SECTION 13.6.(h) The Department of Commerce shall report to the Joint Legislative Economic Development and Global Engagement Oversight Committee no later than October 1, 2012, the following information for each One North Carolina Fund allocation, itemized by recipient: (i) the date of the award, (ii) the date of each disbursement, (iii) the amount of the funds allocated, (iv) the amount and form of the local match requirement, and (v) the date the local match requirement was fulfilled. The Joint Legislative Economic Development and Global Engagement Oversight Committee shall review the report and shall make any recommendations to the General Assembly upon the convening of the 2013 Regular Session.

INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT

SECTION 13.7. Section 14.8 of S.L. 2011-145 reads as rewritten:

"~~SECTION 14.8. The~~ For the 2012-2013 fiscal year, the North Carolina Industrial Commission ~~may shall~~ retain the additional revenue generated as a result of an increase in the fee charged to parties for the filing of compromised settlements. These funds shall be used for the purpose of replacing existing computer hardware and software used for the operations of the Commission. These funds may also be used to prepare any assessment of hardware and software needs prior to purchase and to develop and administer the needed databases and new Electronic Case Management System, including the establishment of two time-limited positions for application development and support and mainframe migration. The Commission may not retain any fees under this section unless they are in excess of the former two-hundred-dollar (\$200.00) fee charged by the Commission for filing a compromised settlement."

EMPLOYMENT SECURITY RESERVE FUND

SECTION 13.8.(a) Section 14.4 of S.L. 2011-145 reads as rewritten:

"**SECTION 14.4.(a)** Funds from the Employment Security ~~Commission~~ Reserve Fund shall be available to the ~~Employment Security Commission of North Carolina~~ Department of Commerce, Division of Employment Security, 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 ~~2011-2012~~ 2012-2013 fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

"SECTION 14.4.(b) There is appropriated from the Employment Security ~~Commission~~ Reserve Fund to the ~~Employment Security Commission of North Carolina~~ Department of Commerce, Division of Employment Security, the sum of twenty million dollars (\$20,000,000) for the ~~2011-2012~~2012-2013 fiscal year to be used for the following purposes:

- (1) \$19,500,000 for the operation and support of local Employment Security ~~Commission offices~~offices operated by the Division of Employment Security.
- (2) \$200,000 to operate the system that tracks former participants in State education and training programs.
- (3) \$300,000 to maintain compliance with Chapter 96 of the General Statutes, which directs the ~~Commission~~Department of Commerce, Division of Employment Security, to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

"SECTION 14.4.(c) There is appropriated from the Employment Security ~~Commission~~ Reserve Fund to the ~~Employment Security Commission of North Carolina~~Department of Commerce, Division of Employment Security, an amount not to exceed one million dollars (\$1,000,000) for the ~~2011-2012~~2012-2013 fiscal year to fund State initiatives not currently funded through federal grants.

"SECTION 14.4.(d) There is appropriated from the Worker Training Trust Fund to the ~~Employment Security Commission of North Carolina~~Department of Commerce, Division of Employment Security, the sum of one million dollars (\$1,000,000) for the ~~2011-2012~~2012-2013 fiscal year to fund "Opportunity NC," which provides work-based training opportunities to recipients of unemployment insurance benefits. Opportunity NC must meet all of the following factors:

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to what would be given in a vocational school or academic educational instruction.
- (2) The training is for the benefit of the trainee.
- (3) The trainees do not displace regular employees, but work under their close observation.
- (4) The employer who provides the training derives no immediate advantage from the activities of the trainees, and, on occasion, the employer's operations may actually be impeded.
- (5) The trainees are not necessarily entitled to a job at the conclusion of the training period.
- (6) The employer and the trainees understand that the trainees are not entitled to wages for the time spent in training.

"SECTION 14.4.(e) Of the funds credited to and held in the State of North Carolina's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title II of Division B of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the ~~Employment Security Commission of North Carolina~~ Department of Commerce, Division of Employment Security, may expend the sum of two hundred five million sixty-three thousand five hundred fifty-two dollars (\$205,063,552) as follows: (i) one hundred million dollars (\$100,000,000) shall be used to design and build the integrated unemployment insurance benefit and tax accounting system and (ii) the remaining funds shall be used for the operation of the unemployment insurance program.

"SECTION 14.4.(f) There is appropriated from the Employment Security Reserve Fund to the Department of Commerce, Division of Employment Security, the amount needed for the 2012-2013 fiscal year to fund the interest payment due to the federal government for the debt owed to the U.S. Treasury for unemployment benefits."

WORKER TRAINING TRUST FUND

SECTION 13.9. Of the funds appropriated in this act to the Department of Commerce for the Worker Training Trust Fund, the sum of seventy-five thousand dollars (\$75,000) in nonrecurring funds for the 2012-2013 fiscal year is allocated to the North Carolina Rural Entrepreneurship through Action Learning (NC REAL) to support curriculum development, materials, and training for Small Business Centers.

WINE AND GRAPE GROWERS COUNCIL TRANSFERRED TO DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SECTION 13.9A.(a) All functions, powers, duties, and obligations previously vested in the Wine and Grape Growers Council within the Division of Travel and Tourism of the Department of Commerce are transferred to and vested in the Markets Division of the Department of Agriculture and Consumer Services by a Type I transfer, as defined in G.S. 143A-6.

SECTION 13.9A.(b) Part 2J of Article 10 of Chapter 143B of the General Statutes is recodified as Article 62A of Chapter 106 of the General Statutes, and the reserved sections of redesignated Article 62 of Chapter 106 are redesignated as sections of Article 62A and read as rewritten:

~~Part 2J~~Article 62A. Wine and Grape Growers Council.

~~§ 143B-437.90,~~ **§ 106-755.1. North Carolina Wine and Grape Growers Council – Creation; powers and duties.**

There is created the North Carolina Wine and Grape Growers Council of the Department of ~~Commerce.~~ Agriculture and Consumer Services. The North Carolina Wine and Grape Growers Council shall have the following powers and duties:

- (1) To identify and implement methods for improving North Carolina's rank as a wine-producing State;
- (2) To assure orderly growth and development of North Carolina's grape and wine industry;
- (3) To achieve public awareness of the quality of North Carolina grapes and wine;
- (4) To coordinate the interaction of North Carolina's grape and wine industry with other segments of the State's economy such as tourism, retail trade, and horticulture;
- (5) To conduct methods of quality assurance of North Carolina's grape and wine industry to create a sound foundation for further growth;
- (6) To assist in the coordination of the activities of the various State agencies and other organizations contributing to the development of the grape and wine industry;
- (7) To receive and disburse funds;
- (8) To enter into contracts for the purpose of developing new or improved markets or marketing methods for wine and grape products;
- (9) To contract for research services to improve viticultural and enological practices in North Carolina;
- (10) To enter into agreements with any local, state, or national organizations or agency engaged in education for the purpose of disseminating information on wine or other viticultural projects;
- (11) To enter into contracts with commercial entities for the purpose of developing marketing, advertising, and other promotional programs designed to promote the orderly growth of the North Carolina grape and wine industry;
- (12) To acquire any licenses or permits necessary for performance of the duties of the Council; and

- (13) To develop a State Viticulture Plan that identifies problems and constraints of the viticultural industry, proposes solutions to those problems and delineates planning mechanisms for the orderly growth of the industry.
- (14) By September 1 of each year, to report to the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on the activities of the Council, the status of the wine and grape industry in North Carolina and the United States, progress on the development and implementation of the State Viticulture Plan, and any contracts or agreements entered into by the Council for research, education, or marketing.

"§ ~~143B-437.91~~, § 106-755.2. North Carolina Wine and Grape Growers Council – Composition; terms; reimbursement.

(a) The North Carolina Wine and Grape Growers Council shall consist of 10 members who shall be appointed by the ~~Secretary of Commerce~~ Commissioner of Agriculture as provided in this section. The members of the Council shall be divided into an advisory committee for the Vinifera Group and an advisory committee for the Muscadines Group for the purpose of performing the powers and duties prescribed in G.S. 143B-437.90 and for the purpose of promoting North Carolina wineries and tourism related to the wineries.

(b) Each advisory committee shall consist of five members, who shall be appointed by the ~~Secretary of Commerce~~ Commissioner of Agriculture to serve two-year terms, which shall be staggered. The members appointed shall be chosen from among individuals who have education or experience in the wine industry or in the field of tourism. No member of an advisory committee may serve for more than two consecutive terms. Initial terms shall commence September 1, 2011.

(c) Each advisory committee shall meet at least twice each calendar year during which time each committee shall discuss issues related to the Council's powers and duties, including ways in which to promote and advertise North Carolina wineries and ways in which to improve, use, and distribute State maps showing winery locations. The Vinifera Group shall meet at the NC Shelton Badgett Viticulture Center at Surry Community College, and the Muscadines Group shall meet at Duplin Community College. After each meeting, each advisory committee shall report to the ~~Secretary of Commerce~~ Commissioner of Agriculture with its recommendations. Notwithstanding any other provision of law, committee members shall receive no salary, per diem, subsistence, travel reimbursement, or other stipend or reimbursement as a result of serving on their respective committees.

(d) Each advisory committee shall elect from the membership of each committee a chair and vice-chair. Vacancies resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term. A majority of the members of each committee shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of each committee shall be necessary for action to be taken by the committee."

COUNCIL OF GOVERNMENT FUNDS

SECTION 13.10. Section 14.12A(a) of S.L. 2011-145 is repealed.

GRASSROOTS SCIENCE PROGRAM

SECTION 13.11. Section 14.11 of S.L. 2011-145 is amended by adding a new subsection to read as follows:

"SECTION 14.11.(b1) Any reductions in funds in the 2012-2013 fiscal year shall be taken on a pro rata basis from the museums listed in subsection (b) of this section."

REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS

SECTION 13.12. Section 14.13 of S.L. 2011-145, as amended by Section 37 of S.L. 2011-391, reads as rewritten:

"REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS

"SECTION 14.13.(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 14.13.(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 ~~one hundred seventy four thousand eight hundred ninety dollars (\$174,890)~~ one hundred sixty-one thousand eight hundred sixty-one dollars (\$161,861) in the ~~2011-2012~~ 2012-2013 fiscal year, which sum represents (i) the total interest earnings in the prior fiscal year on the estimated balance of 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 (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 ~~one hundred seventy four thousand eight hundred ninety dollars (\$174,890)~~ one hundred sixty-one thousand eight hundred sixty-one dollars (\$161,861) in the ~~2011-2012~~ 2012-2013 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 14.13.(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 14.13.(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."

BIOFUELS CENTER OF NORTH CAROLINA

SECTION 13.12A. Section 14.14 of S.L. 2011-145 is amended by adding a new subsection to read as follows:

"SECTION 14.14.(a1) Any reductions in funds in the 2012-2013 fiscal year shall be taken on a pro rata basis from the programs listed in subsection (a) of this section."

NORTH CAROLINA BIOTECHNOLOGY CENTER

SECTION 13.12B. Section 14.15 of S.L. 2011-145 is amended by adding a new subsection to read as follows:

"SECTION 14.15.(a1) Any reductions in funds in the 2012-2013 fiscal year shall be taken on a pro rata basis from the programs listed in subsection (a) of this section."

RURAL CENTER/RURAL JOBS FUND

SECTION 13.13. Section 14.20(d) of S.L. 2011-145 reads as rewritten:

"SECTION 14.20.(d) Rural Jobs Infrastructure Grants. – A Rural Jobs Infrastructure Grant is available to supplement other funds to be applied to the construction or installation costs of an eligible project. Other funds contributed to the project may include federal funds, State funds, and local funds, including contributions from private sector enterprises that may benefit from the proposed improvements. A Rural Jobs Infrastructure Grant is subject to the following provisions:

- (1) Eligibility. – A local government unit is eligible for a Rural Jobs Infrastructure Grant if it is a rural county or is located in a rural county.
- (2) Maximum grant amount. – Grant funds shall be available based upon the number of private sector jobs to be created as a result of the investment from the Rural Jobs Infrastructure Grant Fund. An applicant for a grant may request up to five thousand dollars (\$5,000) per job to be created. An applicant for a Rural Jobs Infrastructure Grant shall not receive more than five hundred thousand dollars (\$500,000) for a proposed infrastructure project. Notwithstanding the provisions of this subdivision, the Rural Center may, if it deems it reasonable and appropriate based upon the number of private sector jobs created and/or the anticipated benefits to the community, award grant funds to a local government that exceed five thousand dollars (\$5,000) per job to be created, provided that the average amount of the total grant funds from the funds appropriated in subsection (a) of this section does not exceed five thousand dollars (\$5,000) per job to be created.
- (3) Matching funds. – A local government unit shall match a Rural Jobs Infrastructure Grant on a dollar-for-dollar basis. As part of the matching funds, recipients of grant funds under the provisions of this section shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The required applicant cash-matching contribution shall come from local resources and may not be derived from other State or federal grant funds or from funds provided by the Rural Center."

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 13.13A. Section 14.16(a) of S.L. 2011-145 reads as rewritten:

"SECTION 14.16.(a) Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc., (Rural Center) the sum of ~~three million five hundred eighty three thousand six hundred ninety one dollars (\$3,583,691)~~two million nine hundred twenty-two thousand eight hundred forty-six dollars (\$2,922,846) for ~~each year in the 2011-2013 biennium~~the 2012-2013 fiscal year shall be allocated as follows:

	2011-2012	2012-2013
Center Administration, Technical Assistance, & Oversight	\$1,302,173	\$1,302,173 \$1,062,047
Research and Demonstration Grants	\$294,120	\$294,120 \$239,883
Institute for Rural Entrepreneurship	\$114,570	\$114,570 \$93,443
Community Development Grants	\$844,250	\$844,250 \$688,568
Microenterprise Loan Program	\$155,610	\$155,610 \$126,915
Water/Sewer/Business Development Matching Grants	\$701,955	\$701,955 \$572,512
Statewide Water/Sewer Database	\$79,523	\$79,523 \$ 64,859
Agricultural Advancement Consortium	\$91,490	\$91,490 \$ 74,619."

RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM

SECTION 13.14. Section 14.17 of S.L. 2011-145 reads as rewritten:

"**SECTION 14.17.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of ~~sixteen million five hundred five thousand seven hundred fifty eight dollars (\$16,505,758)~~thirteen million four hundred sixty-two thousand forty-three dollars (\$13,462,043) for each year in the 2011-2013 biennium the 2012-2013 fiscal year shall be allocated as follows:

- (1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. The grants under this Program shall not be subject to the provisions of G.S. 143-355.4.
- (2) To provide matching grants or loans to local governments in distressed areas that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
- (3) To provide grants and technical assistance to reinvigorate the economies of towns with populations of less than 7,500, and to invest in economic innovation that stimulates business and job growth in distressed areas.
- (4) Recipients of grant funds appropriated under this section shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The cash match shall come from local resources and may not be derived from other State or federal grant funds or from funds provided by the Rural Center.

...
"**SECTION 14.17.(c)** ~~During each year of the 2011-2013 biennium,~~For the 2012-2013 fiscal year, the Rural Center may use up to ~~three hundred twenty nine thousand one hundred seventy eight dollars (\$329,178)~~three percent (3%) of the funds appropriated in this act section to cover its expenses in administering the North Carolina Economic Infrastructure Program.
...."

OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS

SECTION 13.14A. Section 14.18(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 14.18.(a)** Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of ~~two hundred eighty seven thousand two hundred eighty dollars (\$287,280)~~two hundred thirty-four thousand three hundred five dollars (\$234,305) for each year in the 2011-2013 biennium the 2012-2013 fiscal year shall be equally distributed among the certified Opportunities Industrialization Centers (OI Centers)."

REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS/STUDY

SECTION 13.15. The Legislative Research Commission is authorized to study the funding and alignment of the membership of each of the regional economic development commissions listed in Section 14.13 of S.L. 2011-145, as amended by Section 37 of S.L. 2011-391, in order to determine (i) whether the needs of each member organization are being adequately served by the commission of which it is a member and (ii) whether there are areas in which improvement in service can be made in the most cost-effective manner.

PART XIV. DEPARTMENT OF PUBLIC SAFETY**DIVISION OF ADULT CORRECTION/RELEASE DATES**

SECTION 14.1. Notwithstanding any other provision of law, the Division of Adult Correction may establish more than two release dates per month for inmates leaving prison.

INMATE MEDICAL COSTS

SECTION 14.2.(a) Section 19.20 of S.L. 2009-451, as amended by Section 15A of S.L. 2009-575 and Section 19.6(h) of S.L. 2010-31, is repealed.

SECTION 14.2.(b) Section 18.10(d) of S.L. 2011-145 reads as rewritten:

"SECTION 18.10.(d) The ~~Department of~~Division of Adult Correction shall report to the ~~Joint Legislative Commission on Governmental Operations~~Oversight Committee on Justice and Public Safety and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety no later than ~~November 1, 2011~~November 1, 2012, and quarterly thereafter on:

- (1) The volume of services provided by community medical providers that can be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted ~~providers; and~~providers.
- (2) The volume of services provided by community medical providers that cannot be scheduled in advance and, of that volume, the percentage of those services that are provided by contracted providers.
- (3) The volume of services provided by community medical providers that are emergent cases requiring hospital admissions and emergent cases not requiring hospital admissions.
- (4) The volume of inpatient medical services provided to Medicaid-eligible inmates, the cost of treatment, and the estimated savings of paying the nonfederal portion of Medicaid for the services.
- (5) The status of the Division's efforts to contract with hospitals to provide secure wards in each of the State's five prison regions."

JUSTICE REINVESTMENT ACT/LIMITED AUTHORITY TO RECLASSIFY VACANT POSITIONS

SECTION 14.2A.(a) Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Secretary of Public Safety may reclassify existing vacant positions within the Department to create new probation parole officer, parole case analyst, and judicial service coordinator positions in order to meet the increasing caseloads resulting from the implementation of the Justice Reinvestment Act of 2011, S.L. 2011-192, as amended.

SECTION 14.2A.(b) The Department of Public Safety shall report to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by March 1, 2013, on the following:

- (1) The position number, position type, salary, and position location of each new position created under the authority of this section.
- (2) The position number, position type, fund code, and position location of each vacant position used to create new positions under the authority of this section.

TECHNICAL REVOCATION CENTER STUDY

SECTION 14.3. The Division of Adult Correction of the Department of Public Safety shall study the feasibility of creating a technical violation center to house probationers ordered to serve a period of 90 days in confinement due to a technical violation of the condition of their probation. The study would determine the feasibility and cost-effectiveness of using such a center operated by the Community Corrections Section for confinements resulting from technical corrections rather than placing the probationers in State prison facilities. The Department shall report its findings and recommendations to the Office of State Budget and Management and the House and Senate Appropriations Subcommittees on Justice and Public Safety no later than January 1, 2013.

DEPARTMENT OF PUBLIC SAFETY MANAGEMENT FLEXIBILITY REDUCTIONS

SECTION 14.3A. In implementing the management flexibility reductions required by this act for the 2012-2013 fiscal year, the Department of Public Safety shall not do any of the following:

- (1) Close Bladen Correctional Center.
- (2) Reduce community program funding in either the Division of Adult Correction or the Division of Juvenile Justice.
- (3) Eliminate any district level State Highway Patrol trooper positions.

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 14.4. Funds appropriated in this act to the Department of Public Safety for the Division of Juvenile Justice for the 2012-2013 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 Division of Juvenile Justice regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Division of Juvenile Justice 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 prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2012-2013 fiscal year and the allocation of funds by program and purpose. Any Juvenile Accountability Incentive Block Grant awarded to North Carolina is subject to the provisions of G.S. 143C-7-1 and shall not obligate the State financially in future fiscal years.

REPEAL REQUIREMENT REGARDING THE STAFFING TREATMENT MODEL AT YOUTH DEVELOPMENT CENTERS

SECTION 14.5. Section 17.7 of S.L. 2011-145 is repealed.

MULTIPURPOSE GROUP HOME FUNDS

SECTION 14.6. Of the funds appropriated in this act to the Department of Public Safety for the Division of Juvenile Justice, the sum of five hundred fifty thousand dollars (\$550,000) shall be used to continue operating a multipurpose group home in Craven County.

JUVENILE CRIME PREVENTION COUNCIL FUNDS

SECTION 14.7. Section 17.4(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 17.4.(b)** Of the funds appropriated by this act for the ~~2011-2012~~2012-2013 fiscal year to the ~~Department of Juvenile Justice and Delinquency Prevention~~Department of Public Safety for Juvenile Crime Prevention Council grants, the sum of one hundred twenty-one thousand six hundred dollars (\$121,600) shall be transferred to Project Challenge North Carolina, Inc., to be used for the continued support of Project Challenge programs throughout the State."

STRATEGIC PLAN FOR FACILITY CLOSURE, CONSTRUCTION, AND REPAIR

SECTION 14.8. The Department of Public Safety shall study the population dynamics of detention and secure confinement at the Youth Development Centers operated by the Department and shall submit a strategic plan for facility closure, construction, and repair and renovation to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1, 2013. The strategic plan required by this section shall include cost estimates for any proposed projects.

STUDY USES FOR EDGECOMBE YOUTH DEVELOPMENT CENTER

SECTION 14.9. The Department of Public Safety, in consultation and cooperation with the Department of Health and Human Services, shall study potential uses for the facilities at the Edgecombe Youth Development Center and recommend all possible means of continuing those facilities in productive use after the closure of that Center. The Department shall report its findings and recommendations to the Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety and the Chairs of the Joint Legislative Oversight Committee on Health and Human Services by December 1, 2012.

PART XV. DEPARTMENT OF JUSTICE**ITEMIZED BILLING FOR LEGAL SERVICES PROVIDED TO STATE AGENCIES**

SECTION 15.1. Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-8.5. Itemized billing for legal services provided to State agencies.

Whenever the Department of Justice charges a State agency, board, or commission for legal services rendered by the Department, the Department shall do so by providing the agency, board, or commission with an invoice that includes at least all of the following information for all charges:

- (1) The case or matter for which the agency, board, or commission is being charged.
- (2) The name of each attorney who worked on each case or matter and the number of hours worked by each attorney.
- (3) The hourly rate being charged by each attorney."

BIANNUAL REPORTING ON ATTORNEY ACTIVITY

SECTION 15.2. Beginning on February 1, 2013, and every six months thereafter, the Attorney General shall report on the work of Department of Justice attorneys during the previous two quarters. The reports required by this section shall be filed with the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety and with the Fiscal Research Division of the General Assembly as follows:

- (1) Agency-specific work. – A report on the work of Department of Justice attorneys for State agencies. This report shall include at least all of the following information:

- a. The amount of time spent working for each State department and agency.
 - b. The amount of time spent on each case for each State department and agency.
 - c. The amount billed to each State agency for the legal services provided.
- (2) Other work. – A report on the work of Department of Justice attorneys that is not on behalf of a particular State agency. The report required by this subdivision shall include all of the information required by subdivision (1) of this section. The report shall include at least all of the following information:
- a. The amount of time spent by each unit of the Department of Justice.
 - b. The amount of time spent on each particular matter for each unit of the Department of Justice.

CONSOLIDATE OFFICE OF MANAGED CARE PATIENT ASSISTANCE PROGRAM BY TRANSFERRING THE DEPARTMENT OF JUSTICE, HEALTH INSURANCE CONSUMER PROTECTION UNIT, TO THE DEPARTMENT OF INSURANCE

SECTION 15.3.(a) The Department of Justice, Health Insurance Consumer Protection Unit, and any portion of the Managed Care Patient Assistance Program managed by the Department of Justice is transferred to the Department of Insurance. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

SECTION 15.3.(b) G.S. 143-730(a) reads as rewritten:

"(a) The Office of Managed Care Patient Assistance Program is established in ~~an existing State agency or department designated by the Governor. The Director of the Office of Managed Care Patient Assistance Program shall be appointed by the Governor.~~ the Department of Insurance."

ESTABLISH HUMAN TRAFFICKING COMMISSION

SECTION 15.3A.(a) Establishment. – There is established in the Department of Justice the North Carolina Human Trafficking Commission.

SECTION 15.3A.(b) Members. – The Commission shall consist of 12 members as follows:

- (1) The President Pro Tempore of the Senate shall appoint one representative from each of the following:
 - a. The public at large.
 - b. A county sheriff's department.
 - c. A city or town police department.
- (2) The Speaker of the House of Representatives shall appoint one representative from each of the following:
 - a. The public at large.
 - b. A county sheriff's department.
 - c. A city or town police department.
- (3) The Governor shall appoint one representative from the public at large.
- (4) The following persons, or their designees, shall serve as ex officio members of the Commission:
 - a. The Secretary of Public Safety.
 - b. The Secretary of Administration.
 - c. The Secretary of Labor.
 - d. The Secretary of Health and Human Services.
 - e. The Attorney General.

SECTION 15.3A.(c) Powers. – The Commission shall have the following powers:

- (1) To apply for and receive, on behalf of the State, funding from federal, public or private initiatives, grant programs, or donors that will assist in examining and countering the problem of human trafficking in North Carolina.
- (2) To commission, fund, and facilitate quantitative and qualitative research to explore the specific ways human trafficking is occurring in North Carolina and the links to international and domestic human trafficking, and to assist in creating measurement, assessment, and accountability mechanisms.
- (3) To contribute to efforts to inform and educate law enforcement personnel, social services providers, and the general public about human trafficking so that human traffickers can be prosecuted and victim-survivors can receive appropriate services.
- (4) To suggest new policies, procedures, or legislation to further the work of eradicating human trafficking and to provide assistance and review with new policies, procedures, and legislation.
- (5) To assist in developing regional response teams or other coordinated efforts to counter human trafficking at the level of law enforcement, legal services, social services, and nonprofits.
- (6) To identify gaps in law enforcement or service provision and recommend solutions to those gaps.
- (7) To consider whether human trafficking should be added to the list of criminal convictions that require registration under the sex offender and public protection registration program.

SECTION 15.3A.(d) Terms. – Members shall serve until the Commission terminates.

SECTION 15.3A.(e) Meetings. – The chair shall convene the Commission. Meetings shall be held as often as necessary, but not less than four times a year.

SECTION 15.3A.(f) Quorum. – A majority of the members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Commission shall be necessary for action to be taken by the Commission.

SECTION 15.3A.(g) Vacancies. – A vacancy on the Commission or as chair of the Commission resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

SECTION 15.3A.(h) Removal. – The Commission may remove a member for misfeasance, malfeasance, nonfeasance, or neglect of duty.

SECTION 15.3A.(i) Compensation. – Commission members shall receive no per diem for their services but shall be entitled to receive travel allowances in accordance with the provisions of G.S. 138-5 or G.S. 138-6, as appropriate.

SECTION 15.3A.(j) Staffing. – The Department of Justice shall be responsible for staffing the Commission.

SECTION 15.3A.(k) Termination. – The Commission established under this section shall terminate on December 31, 2014.

REQUIRE PLANNING OF WESTERN REGIONAL LABORATORY

SECTION 15.4. From funds available, the Department of Justice shall plan a Western Regional Laboratory to be located on the Edneyville Campus of the Training Academy. The Department shall report on the plan to the Chairs of the House of Representatives and Senate Appropriations Committees, to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and to the Fiscal Research Division no later than February 1, 2013. The report shall include (i) the plans developed pursuant to this section; (ii) the estimated cost of completing the laboratory;

(iii) the estimated cost of operating the laboratory during its first five years of operation; (iv) an estimated time line for completion of the laboratory; and (v) any other relevant information.

NO ELIMINATION OF CRIME LAB POSITIONS

SECTION 15.5. In implementing the management flexibility reductions required by this act for the 2012-2013 fiscal year, the Department of Justice shall not eliminate positions at laboratory facilities.

PART XVI. JUDICIAL DEPARTMENT

STUDY MANAGEMENT OF MAGISTRATE SCHEDULES

SECTION 16.1. The Administrative Office of the Courts shall study the management of magistrate schedules throughout the General Court of Justice and make recommendations to (i) provide for more efficient use of the magistrates established for each county; and (ii) ensure that each county has sufficient coverage to adequately respond to law enforcement and the public. The Administrative Office of the Courts shall report its finding and recommendations to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2013.

FAMILY COURT PROGRAMS

SECTION 16.2. The Administrative Office of the Courts shall provide direction and oversight to the existing family court programs in order to ensure that each district with a family court program is utilizing best practices and is working effectively and efficiently in the disposition of domestic and juvenile cases. The Administrative Office of the Courts shall report on its efforts in this regard and the results of those efforts to the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety by March 1, 2013.

FOREIGN LANGUAGE INTERPRETERS FOR THE COURTS

SECTION 16.3.(a) G.S. 7A-314(f) is repealed.

SECTION 16.3.(b) G.S. 7A-343 reads as rewritten:

"§ 7A-343. Duties of Director.

The Director is the Administrative Officer of the Courts, and the Director's duties include all of the following:

...

- (9c) Prescribe policies and procedures for the appointment and payment of foreign language ~~interpreters in those cases specified in G.S. 7A-314(f).~~ interpreters. These policies and procedures shall be applied uniformly throughout the General Court of Justice. After consultation with the Joint Legislative Commission on Governmental Operations, the Director may also convert contractual foreign language interpreter positions to permanent State positions when the Director determines that it is more cost-effective to do so.

...."

SECTION 16.3.(c) The Judicial Department may use funds appropriated and funds available to the Department to provide assistance to persons with limited proficiency in English to assist the court in the fair, efficient, and accurate transaction of business and provide more meaningful access to the courts.

EXTEND SUNSET ON PILOT PROJECT FOR ELECTRONIC FILING IN DOMESTIC VIOLENCE AND CIVIL NO-CONTACT CASES IN ALAMANCE COUNTY

SECTION 16.4.(a) Section 15.13(b) of S.L. 2010-31 reads as rewritten:

"SECTION 15.13.(b) This section expires ~~June 30, 2012.~~ June 30, 2014."

SECTION 16.4.(b) This section becomes effective June 30, 2012.

EXPAND USES FOR COURT INFORMATION TECHNOLOGY FUND**SECTION 16.5.(a)** G.S. 7A-343.2 reads as rewritten:**"§ 7A-343.2. Court Information Technology and Facilities Fund.**

(a) Fund. – The Court Information Technology and Facilities Fund is established within the Judicial Department as a special revenue fund. Interest and other investment income earned by the Fund accrues to it. The Fund consists of the following revenues:

- (1) All monies collected by the Director pursuant to G.S. 7A-109(d) and 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 State judicial facilities and the judicial and county courthouse phone systems. 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 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. The report must include the following:

- (1) Amounts credited in the preceding six months to the Fund.
- (2) Amounts expended in the preceding six months from the Fund and the purposes of the expenditures.
- (3) Proposed expenditures of the monies in the Fund."

SECTION 16.5.(b) G.S. 7A-304 reads as rewritten:**"§ 7A-304. Costs in criminal actions.**

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Costs under this section may not be waived unless the judge makes a written finding of just cause to grant such a waiver.

...

- (2a) For the upgrade, maintenance, and operation of State judicial facilities and the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology and Facilities Fund.

...."

SECTION 16.5.(c) G.S. 7A-305 reads as rewritten:**"§ 7A-305. Costs in civil actions.**

(a) In every civil action in the superior or district court, except for actions brought under Chapter 50B of the General Statutes, shall be assessed:

...

- (1a) For the upgrade, maintenance, and operation of State judicial facilities and the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology and Facilities Fund.

...

(a5) In every civil action in the superior or district court wherein a party files a pleading containing one or more counterclaims or cross-claims, except for counterclaim and cross-claim actions brought under Chapter 50B of the General Statutes for which costs are assessed pursuant to subsection (a1) of this section, the following shall be assessed:

...

- (2) For the upgrade, maintenance, and operation of State judicial facilities and the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology and Facilities Fund.

...."

SECTION 16.5.(d) G.S. 7A-306 reads as rewritten:

"§ 7A-306. Costs in special proceedings.

(a) In every special proceeding in the superior court, the following costs shall be assessed:

...

- (1a) For the upgrade, maintenance, and operation of State judicial facilities and the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology and Facilities Fund.

...."

SECTION 16.5.(e) G.S. 7A-307 reads as rewritten:

"§ 7A-307. Costs in administration of estates.

(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal property by affidavit, the following costs shall be assessed:

...

- (1a) For the upgrade, maintenance, and operation of State judicial facilities and the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology and Facilities Fund.

...."

SECTION 16.5.(f) G.S. 7A-49.5(d) reads as rewritten:

"(d) Any funds received by the Administrative Office of the Courts from the vendor selected pursuant to subsection (c) of this section, other than applicable statutory court costs, as a result of electronic filing, shall be deposited in the Court Information Technology and Facilities Fund in accordance with G.S. 7A-343.2."

SECTION 16.5.(g) G.S. 7A-109(d) reads as rewritten:

"(d) In order to facilitate public access to court records, except where public access is prohibited by law, the Director may enter into one or more nonexclusive contracts under reasonable cost recovery terms with third parties to provide remote electronic access to the records by the public. Costs recovered pursuant to this subsection shall be remitted to the State Treasurer to be held in the Court Information Technology and Facilities Fund established in G.S. 7A-343.2."

SECTION 16.5.(h) G.S. 7A-455.1(f) reads as rewritten:

"(f) Of each appointment fee collected under this section, the sum of fifty-five dollars (\$55.00) shall be credited to the Indigent Persons' Attorney Fee Fund and the sum of five dollars (\$5.00) shall be credited to the Court Information Technology and Facilities Fund under G.S. 7A-343.2. These fees shall not revert."

SECTION 16.5.(i) This section is effective when it becomes law, and expires June 30, 2013.

WAIVER OF MEDIATION FEES TO REQUIRE FINDING OF JUST CAUSE

SECTION 16.6.(a) G.S. 7A-38.7 reads as rewritten:

"§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.

(a) In each criminal case filed in the General Court of Justice that is resolved through referral to a community mediation center, a dispute resolution fee shall be assessed in the sum of sixty dollars (\$60.00) per mediation to support the services provided by the community mediation centers and the Mediation Network of North Carolina. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the Mediation Network of North Carolina. The Mediation Network may retain up to three dollars (\$3.00) of this amount as an allowance for its administrative expenses. The Mediation Network must remit the remainder of this amount to the community mediation center that mediated the case. The court may waive or reduce a fee assessed under this section only upon entry of a written order, supported by findings of fact and conclusions of law, determining there is just cause to grant the waiver or reduction.

(b) Before providing the district attorney with a dismissal form, the community mediation center shall require proof that the defendant has paid the dispute resolution fee as required by subsection (a) of this section and shall attach the receipt to the dismissal form."

SECTION 16.6.(b) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. ~~Costs under this section may not be waived unless the judge makes a written finding of just cause to grant such a waiver.~~ Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivisions (7) or (8) of this section.

...

(7) For the services of the North Carolina State Crime Laboratory facilities, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the Department of Justice for support of the State Bureau of Investigation. This cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratories have performed DNA analysis of the crime, tests of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. ~~The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction.~~

(8) For the services of any crime laboratory facility operated by a local government or group of local governments, the district or superior court judge shall, upon conviction, order payment of the sum of six hundred dollars (\$600.00) to be remitted to the general fund of the local governmental unit that operates the laboratory to be used for law enforcement purposes. The cost shall be assessed only in cases in which, as part of the investigation leading to the defendant's conviction, the laboratory has performed DNA analysis of the crime, test of bodily fluids of the defendant for the presence of alcohol or controlled substances, or analysis of any controlled substance possessed by the defendant or the defendant's agent. The costs shall be assessed only if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the State Bureau of Investigation under subdivision (7) of this subsection. ~~The court may waive or reduce the amount of the payment required by this subdivision upon a finding of just cause to grant such a waiver or reduction.~~

- (9) For the support and services of the State Bureau of Investigation DNA Database and DNA Databank, the sum of two dollars (\$2.00). This amount is annually appropriated to the Department of Justice for this purpose. Notwithstanding the provisions of subsection (e) of this section, this cost does not apply to infractions.

...."

SECTION 16.6.(c) This section becomes effective July 1, 2012, and applies to fees waived on or after that date.

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 16.7. Section 15.4 of S.L. 2011-145 reads as rewritten:

"**SECTION 15.4.** Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on ~~June 30, 2011,~~ June 30, 2012, for the purchase or repair of office or information technology equipment during the ~~2011-2012 fiscal year.~~ 2012-2013 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental ~~Operations and Operations,~~ the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public ~~Safety-Safety,~~ and the Office of State Budget and Management on the equipment to be purchased or repaired and the reasons for the purchases."

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS

SECTION 16.8. Section 15.16(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 15.16.(a)** The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred fifty thousand dollars (\$2,150,000) in appropriated funds during the 2011-2012 fiscal year for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, for the creation of new public defender offices within existing public defender programs, or for the establishment of regional public defender programs. Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent Defense Services may use a portion of these funds to create positions within existing public defender programs to handle cases in adjacent counties or districts. These funds may be used to create up to 50 new attorney positions and 25 new support staff positions during the ~~2011-2012 fiscal year~~ 2011-2013 biennium and for the salaries, benefits, equipment, and related expenses for these positions in both years of the biennium. Positions creation will be staggered across the two years of the biennium. 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."

OFFICE OF INDIGENT DEFENSE SERVICES/STATE MATCH FOR GRANTS

SECTION 16.9. Notwithstanding G.S. 143C-6-9, the Office of Indigent Defense Services may use the sum of up to fifty thousand dollars (\$50,000) from funds available to provide the State matching funds needed to receive grant funds. Prior to using funds for this purpose, the Office 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.

PART XVII. OFFICE OF THE STATE AUDITOR

EXEMPT OCCUPATIONAL LICENSING BOARDS FROM PAYING FOR AUDITS UNDER CERTAIN CIRCUMSTANCES

SECTION 17.1. G.S. 93B-4 reads as rewritten:

"§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.

(a) The State Auditor shall audit occupational licensing boards from time to time to ensure their proper operation. The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor may contract with independent professionals to meet the requirements of this section.

~~The cost of all audits shall be paid from funds of the occupational licensing board audited.~~

(b) Each occupational licensing board with a budget of at least fifty thousand dollars (\$50,000) shall conduct an annual financial audit of its operations and provide a copy to the State Auditor."

SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTIONS – AUDIT

SECTION 17.2. G.S. 116-30.8 reads as rewritten:

"§ 116-30.8. Special responsibility constituent institutions: annual audit by State Auditor or certified public accountant.

Each special responsibility constituent institution shall be audited annually. The Chancellor of the special responsibility constituent institution may use State funds to contract with the State Auditor or with a certified public accountant to perform the audit. The contract for audit services may be for up to three years in duration. The audit shall be provided to the Chancellor and Board of Trustees of the special responsibility institution, the Board of Governors of The University of North Carolina, and the State Auditor. The audit shall also be included in the State's Comprehensive Annual Financial Report (CAFR).

The Board of Governors of The University of North Carolina shall ensure that all special responsibility constituent institutions are audited in accordance with this section."

AUDITOR PUBLISH COST OF AUDITS

SECTION 17.3. Article 5A of Chapter 147 of the General Statutes is amended by adding a new section to read:

"§ 147-64.6C. Cost of audit report published.

Each audit report shall itemize the number of staff hours used in conducting the audit and in preparation of the audit report and the total cost of conducting the audit and preparing the audit report."

AGENCY PUBLISH COST OF AUDITS

SECTION 17.4. Article 5A of Chapter 147 of the General Statutes is amended by adding a new section to read:

"§ 147-64.6D. Cost of CPA audit report published.

Each audit report prepared for a State agency by a Certified Public Accountant shall itemize the number of hours used in conducting the audit and in preparation of the audit report and the total cost of conducting the audit and preparing the audit report."

PART XVIII. DEPARTMENT OF CULTURAL RESOURCES**ROANOKE ISLAND COMMISSION REPORTING REQUIREMENT**

SECTION 18.1. G.S. 143B-131.4 reads as rewritten:

"§ 143B-131.4. Commission reports.

Before July 1, 1995, the Commission shall submit to the General Assembly a comprehensive report incorporating specific recommendations of the Commission for development and promotion of the Elizabeth II State Historic Site and Visitor Center. After the initial report, the Commission shall submit a quarterly report to the General Assembly within 30 days of the convening of each Regular Session of the General Assembly. Chairs of the House Appropriations Subcommittee on General Government and the Chairs of the Senate

Appropriations Committee on General Government and Information Technology and to the Fiscal Research Division of the General Assembly. The report shall include:

- (1) A summary of actions taken by the Commission consistent with the powers and duties of the Commission set forth in G.S. 143B-131.2.
- (2) Recommendations for legislation and administrative action to promote and develop the Elizabeth II State Historic Site and Visitor Center.
- (3) An accounting of funds received and expended."

MODIFY STATE HISTORIC SITES SPECIAL FUND TO INCLUDE STATE HISTORY MUSEUMS

SECTION 18.2. G.S. 121-7.7 reads as rewritten:

"§ 121-7.7. **State Historic Sites and Museums special fund.**

(a) Fund. – The State Historic Sites and Museums Fund is created as a special, interest-bearing revenue fund in the Division of State Historic ~~Sites~~Sites and the Division of State History Museums. The Fund consists of all receipts derived from the lease or rental of property or facilities, disposition of structures or products of the land, private donations, and admissions and fees collected at the State Historic ~~Sites~~Sites, State History Museums, and Maritime Museums. The revenues in the Fund may be used only for the operation, interpretation, maintenance, preservation, development, and expansion of the individual State Historic ~~Site~~Site, State History Museum, and Maritime Museum where the receipts are generated. The respective Division and the staff from each State Historic ~~Site~~Site, State History Museum, and Maritime Museum will determine how the funds will be used at that Historic ~~Site~~Site, State History Museum, and Maritime Museum.

(b) Application. – This section applies to the individual State Historic Sites and State History and Maritime Museums owned by or under the control of the Division of State Historic ~~Sites~~Sites and the Division of State History Museums, with the exception of the Bentonville Battlefield State Historic ~~Site~~Site and the North Carolina Transportation Museum. The Bentonville Battlefield State Historic Site is subject to G.S. 121-7.5. The North Carolina Transportation Museum is subject to G.S. 121-7.6.

(c) Reports. – The Department of Cultural Resources must submit to the Joint Legislative Commission on Governmental Operations, the House of Representatives and Senate Appropriations Subcommittees on General Government, and the Fiscal Research Division by September 30 of each year a report on the Fund that includes the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

REQUIRE DEPARTMENT OF CULTURAL RESOURCES AND ROANOKE ISLAND COMMISSION TO DEVELOP FIVE-YEAR PLANS FOR CERTAIN HISTORIC SITES

SECTION 18.3. The Department of Cultural Resources shall develop comprehensive five-year plans for the Tryon Palace Historic Sites and Gardens and the North Carolina Transportation Museum. The Roanoke Island Commission shall develop a comprehensive five-year plan for the Elizabeth II State Historic Site and Visitor Center, the Elizabeth II, Ice Plant Island, and all other properties under the administration of the Department of Cultural Resources located on Roanoke Island. The plans shall describe in detail revenue and expenditure projections, proposed reductions in scope or expenditures, and each site's plans to further develop non-State sources of funding in accordance with the reductions in appropriations implemented in S.L. 2011-145, including the feasibility of privatization. The Department and the Roanoke Island Commission shall submit their reports to the Chairs of the House Appropriations Subcommittee on General Government and the Chairs of the Senate Appropriations Committee on General Government and Information Technology by February 1, 2013.

PART XIX. GENERAL ASSEMBLY**PROGRAM EVALUATION DIVISION TO STUDY THE DUTIES AND SERVICES OF THE NORTH CAROLINA HUMAN RELATIONS COMMISSION AND THE CIVIL RIGHTS DIVISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS**

SECTION 19.1. Section 20.2 of S.L. 2011-145, as amended by Section 45(b) of S.L. 2011-391, reads as rewritten:

"SECTION 20.2.(a) ~~The Legislative Research Commission is authorized to~~Program Evaluation Division shall study the duties and services of the North Carolina Human Relations Commission and the Civil Rights Division of the Office of Administrative Hearings to determine whether there is unnecessary overlap and duplication of services and recommend the placement of the Commission and Division in the appropriate agency or agencies.

"SECTION 20.2.(b) ~~The Legislative Research Commission may make an interim report by May 1, 2012, to the Chairs of the House Appropriations Subcommittee on General Government and the Chairs of the Senate Appropriations Committee on General Government and Information Technology.~~Program Evaluation Division shall report its findings upon the convening of the 2013 General Assembly.

"SECTION 20.2.(c) This section is effective when it becomes law."

PART XX. DEPARTMENT OF INSURANCE**DOI TO STUDY FIRE PROTECTION GRANT FUND**

SECTION 20.1.(a) The Department of Insurance shall study how the fund distribution method for the State Fire Protection Grant Fund could more fully meet the requirement of G.S. 58-85A-1(b) that the distribution method be equitable and uniform. The study shall consider the following factors, as well as any other factors the Department finds relevant:

- (1) Whether the basis for determining the amount of compensation due a local fire district or political subdivision for providing local fire protection to State-owned buildings and their contents actually reflects the cost to the local fire district or political subdivision of providing the fire protection services.
- (2) How the division in funds among properties supported by the General Fund, properties supported by the Highway Fund, and properties supported by The University of North Carolina receipts required by G.S. 58-85A-1(c) should be revised to support fire protection services provided to State-owned properties not receiving support from those Funds or receipts.

SECTION 20.1.(b) The Department shall report its findings and any recommendations for revision of the fund distribution method to the House and Senate Appropriations Subcommittees on General Government and to the Fiscal Research Division on or before October 1, 2012.

INCREASE CONSUMER PROTECTION FUND RETAINED AMOUNT

SECTION 20.2. G.S. 58-2-215 reads as rewritten:

"§ 58-2-215. Consumer Protection Fund.

...

(c) Moneys appropriated by the General Assembly shall be deposited in the Fund and shall become a part of the continuation budget of the Department of Insurance. Such continuation budget amount shall equal the actual expenditures drawn from the Fund during the prior fiscal year plus the official inflation rate designated by the Director of the Budget in the preparation of the State Budget for each ensuing fiscal year; provided that if interest income on the Fund exceeds the amount yielded by the application of the official inflation rate, such continuation budget amount shall be the actual expenditures drawn from the Fund, ~~except that~~

~~the appropriation for the 1995-96 fiscal year shall not exceed the sum of seven hundred fifty thousand dollars (\$750,000) and for the 1996-97 fiscal year shall not exceed the sum of two hundred fifty thousand dollars (\$250,000). Fund. In the event the amount in the Fund exceeds two hundred fifty thousand dollars (\$250,000) five hundred thousand dollars (\$500,000) at the end of any fiscal year, beginning with the 1995-96 fiscal year, such excess shall revert to the General Fund.~~

...."

FUNDING OF BUILDING CODE REVIEWS FOR STATE BUILDINGS

SECTION 20.3. Section 7 of Session Law 2009-474 reads as rewritten:

"**SECTION 7.** The Department of Insurance shall transfer to the Department of Administration four building code review positions selected by the Department of Administration for the purpose of assisting the Department of Administration in administering G.S. 143-341(3) and G.S. 143-139(e). These positions shall be supported by the Insurance Regulatory Fund at one hundred percent (100%) of the full budgeted amount for each position ~~from fiscal year 2009-2010 through fiscal year 2011-2012. Beginning fiscal year 2012-2013, the State Treasurer, as custodian of the State Property Fire Insurance Fund, shall support those positions out of the State Property Fire Insurance Fund position.~~"

DOI TO ASSESS VOLUNTEER SAFETY WORKERS COMPENSATION FUND

SECTION 20.4.(a) The Department of Insurance, from funds available to it, shall contract with an independent actuary to assess the Volunteer Safety Workers Compensation Fund. The assessment shall include the following components:

- (1) Recommendations as to the level of funding required to ensure that the Fund can meet its financial obligations.
- (2) The level and duration of funding required for the Fund to become self-sufficient in the future.
- (3) The nature of the claims paid by the Fund and any claims-related trends that impact the health of the Fund.
- (4) Recommendations as to the appropriate level of premiums to be paid by members or their departments.
- (5) A projection of revenues to the Fund from sources other than State funding.
- (6) A comparison of the projected timing and risk of the cash flow from investments with the cash flow needed to pay claims.

No later than October 1, 2012, the Department shall report the independent actuary's assessment and findings and also provide a comparison of the premiums paid into the Fund and premiums paid by municipal fire departments for their employees' workers compensation insurance to the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on General Government, and the Fiscal Research Division.

SECTION 20.4.(b) The General Assembly anticipates that local contributions to the fund by premiums or otherwise will need to be increased beginning with fiscal year 2013-2014 to restore the actuarial soundness of the Fund.

PART XXI. DEPARTMENT OF THE SECRETARY OF STATE

TREAT FEES COLLECTED BY CHARITABLE LICENSING DIVISION LIKE OTHER FEES COLLECTED BY THE SECRETARY OF STATE

SECTION 21.1. Fees collected under Chapter 131F of the General Statutes shall be deposited into the General Fund.

PART XXII. OFFICE OF STATE BUDGET AND MANAGEMENT**NC SYMPHONY FUNDING**

SECTION 22.1. Section 25.2 of S.L. 2011-145 reads as rewritten:

"**SECTION 25.2.(a)** Of the funds appropriated in this act to the Office of State Budget and Management-Special Appropriations, the sum of one million five hundred thousand dollars (\$1,500,000) in nonrecurring funds for the ~~2011-2012~~2012-2013 fiscal year shall be allocated to the North Carolina Symphony in accordance with this section.

"**SECTION 25.2.(b)** It is the intent of the General Assembly that the NC Symphony achieve its goal of raising the sum of eight million dollars (\$8,000,000) in non-State funding to support the operations of the Symphony. To that end, upon demonstrating to the Office of State Budget and Management that the NC Symphony has reached fund-raising targets in the amounts set forth in this subsection, the NC Symphony shall receive allocations from the Office of State Budget and Management as follows:

- (1) Upon raising the initial sum of four million dollars (\$4,000,000) in non-State funding, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (2) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total amount of six million dollars (\$6,000,000) in non-State funds, the NC Symphony shall receive the sum of five hundred thousand dollars (\$500,000).
- (3) Upon raising an additional sum of two million dollars (\$2,000,000) in non-State funding for a total sum of eight million dollars (\$8,000,000) in non-State funds, the NC Symphony shall receive the final sum of five hundred thousand dollars (\$500,000) for the ~~2011-2012~~2012-2013 fiscal year.

"**SECTION 25.2.(c)** The NC Symphony cannot use funds transferred from the organization's endowment to its operating budget to achieve the fund-raising targets set forth in subsection (b) of this section. Funds allocated pursuant to this section are in addition to any other funds allocated to the NC Symphony in this act."

AUTHORIZATION TO SPEND FUNDS FOR CERTAIN PURPOSES

SECTION 22.2. Notwithstanding G.S. 143C-6-5, the Office of State Budget and Management may use funds within Budget Code 13005 to do the following:

- (1) Reclassify one or more vacant positions to Senior Economists to provide support in developing Medicaid projections and monitoring Medicaid expenditures.
- (2) Support Integrated Budget Information System ongoing operations and maintenance costs.

PART XXII-A. DEPARTMENT OF REVENUE**PROSECUTION OF CASES INVOLVING TAX FRAUD**

SECTION 22A.1. The Department of Revenue and the Department of Justice shall enter into an agreement through which the Department of Revenue shall provide funding for an Attorney IV to be employed by the Department of Justice. This position shall be assigned on a full-time basis to assist the Department of Revenue in the investigation and prosecution of cases involving tax fraud.

The agreement shall specify that the attorney shall report periodically to the Secretary of Revenue on his or her work time devoted to prosecution of tax fraud cases rather than to other work within the Department of Justice.

PART XXIII. STATE BOARD OF ELECTIONS**HAVA FUNDS/DISABILITY ACCESS**

SECTION 23.1. The State Board of Elections shall not expend any Help America Vote Funds (HAVA) Title II Funds for the 2012-2013 fiscal year and, unless prohibited by federal law, shall retain those funds until Maintenance of Effort funds are appropriated, except that voting accessibility funds granted by the Secretary of Health and Human Services under Section 261 of HAVA may be applied for and expended by the State Board of Elections to improve voting accessibility for the disabled.

ELECTION SYSTEM MAINTENANCE CONTRACTS

SECTION 23.3.(a) G.S. 163-165.9(b)(2) reads as rewritten:

"(b) After the acquisition of any voting system, the county board of elections shall comply with any requirements of the State Board of Elections regarding training and support of the voting system by completing all of the following:

...

- (2) The county board of elections shall annually maintain software license and maintenance agreements necessary to maintain the warranty of its voting system. A county board of elections may employ qualified personnel to maintain a voting system in lieu of entering into maintenance agreements necessary to maintain the warranty of its voting system. State Board of Elections is not required to provide routine maintenance to any county board of elections that does not maintain the warranty of its voting system. If the State Board of Elections provides any maintenance to a county that has not maintained the warranty of its voting system, the county shall reimburse the State for the cost. The State Board of Elections shall annually report to the House and Senate Committees on Appropriations, to the Fiscal Research Division, and to the Joint Legislative Commission on Governmental Operations on implementation of this subdivision. If requested by the county board of elections, the State Board of Elections may enter into contracts on behalf of that county under this subdivision, but such contracts must also be approved by the county board of elections. Any contract entered into under this subdivision shall be paid from non-State funds. Neither a county nor the State Board of Elections shall enter into any contract with any vendor for software license and maintenance agreements unless the vendor agrees to (i) operate a training program for qualification of county personnel under this subsection with training offered within the State of North Carolina and (ii) not dishonor warranties merely because the county is employing qualified personnel to maintain the voting system as long as the county:
- a. Pays the costs of the annual software licensing agreement for that county.
 - b. Ensures that equipment (i) remains in full compliance with State certification requirements and (ii) remains in stock and supply available to the county for up to five years after the vendor discontinues distribution or sale of the equipment.
 - c. Maintains a tracking record to record and timely report all hardware issues and all repairs and provides those records for review by the vendor and by the State Board of Elections.
 - d. Provides that only parts provided by the vendor would be used to repair the vendor's equipment, contingent on (i) the county being able to purchase necessary parts in a timely manner from the vendor and (ii) the vendor providing the equipment at least at the lowest price at

which it sells the equipment to any other customer in the United States.

- e. Accepts financial responsibility for expenses related to voting equipment failure during an election if the failure is caused solely by work of the county technician."

SECTION 23.3.(b) In administering G.S. 163-165.9(b)(2), as amended by this section, the State Board of Elections shall work with all county boards of elections interested in obtaining certification for voting equipment maintenance technicians. The State Board of Elections shall work with the county boards of elections to develop a consensus estimate of the percentage of hardware maintenance previously provided by the vendor that will continue to be provided by the vendor rather than by the certified county technicians. In any contract entered into by either a county or the State Board of Elections on behalf of counties for voter equipment maintenance that includes certification of county technicians, the price paid for hardware maintenance agreements shall not exceed the equivalent of the consensus percentage multiplied by the number of machines multiplied by the price per machine paid to the vendor for hardware maintenance agreements for the 2011-2012 fiscal year.

SECTION 23.3.(c) The amendment to G.S. 163-165.9(b)(2) made by subsection (a) of this section applies to contracts entered into, modified, or extended on or after July 1, 2012.

SBOE SUPPLEMENTAL REPORT ON VOTER-OWNED ELECTIONS ACT

SECTION 23.5. The State Board of Elections shall not later than July 25, 2012, provide to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division a supplemental report on the administration and implementation of Article 22J of Chapter 163 of the General Statutes, the Voter-Owned Elections Act, including all certified candidates for the 2012 General Election and the amounts that have been and will be distributed to each such candidate.

PART XXIV. DEPARTMENT OF TRANSPORTATION

CASH FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 24.1.(a) Section 28.1 of S.L. 2011-145 is repealed.

SECTION 24.1.(b) The General Assembly authorizes and certifies anticipated revenues for the Highway Fund as follows:

For Fiscal Year 2013-2014	\$ 2,162.1 million
For Fiscal Year 2014-2015	\$ 2,281.8 million
For Fiscal Year 2015-2016	\$ 2,407.2 million
For Fiscal Year 2016-2017	\$ 2,523.8 million

SECTION 24.1.(c) The General Assembly authorizes and certifies anticipated revenues for the Highway Trust Fund as follows:

For Fiscal Year 2013-2014	\$ 1,120.0 million
For Fiscal Year 2014-2015	\$ 1,195.5 million
For Fiscal Year 2015-2016	\$ 1,284.0 million
For Fiscal Year 2016-2017	\$ 1,336.9 million

FURTHER PRIVATIZATION OF PRE-CONSTRUCTION ACTIVITIES

SECTION 24.2. For fiscal year 2013-2014, the Department of Transportation shall increase the outsourcing of preliminary engineering projects from fifty percent (50%) of the total funds in the annual work plan, as required by Section 28.9.(3) of S.L. 2011-145, to sixty percent (60%) of the total funds in the annual work plan.

FUNDS FROM INSPECTION PROGRAM ACCOUNT FOR OTHER HIGHWAY FUND USES

SECTION 24.3. Notwithstanding G.S. 20-183.7(d), the sum of five million dollars (\$5,000,000) from the Inspection Program Account within the Highway Fund, as established under G.S. 20-183.7(d), is appropriated and allocated as shown in this act.

CLARIFY USE OF CREDIT RESERVE BALANCE IN HIGHWAY FUND

SECTION 24.6. G.S. 136-44.2 reads as rewritten:

"§ 136-44.2. Budget and appropriations.

(a) The Director of the Budget shall include in the "Current Operations Appropriations Act" an enumeration of the purposes or objects of the proposed expenditures for each of the construction and maintenance programs for that budget period for the State primary, secondary, State parks road systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall include State-maintained, nonhighway modes of transportation as well.

(b) All construction and maintenance programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

(c) Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

(d) The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

(e) The "Current Operations Appropriations Act" shall also contain the proposed appropriations of State funds for use in each county for maintenance and construction of secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the construction and maintenance of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

(f) If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is greater than the amount estimated for that date in the Current Operations Appropriations Act for the following fiscal year, the excess shall be used in accordance with this ~~paragraph~~ subsection. The Director of the Budget ~~may~~ shall allocate ~~part or all of the excess among reserves to a reserve (i) for access and public roads, for unforeseen events requiring prompt action, roads or (ii) for other urgent needs. The amount not allocated to any of these reserves by the Director of the Budget shall be credited to a reserve for maintenance. The Board of Transportation shall report monthly to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on the use of funds in the maintenance reserve. The use of this reserve shall be subject to the following:~~

- (1) Restrictions on use. – No more than five million dollars (\$5,000,000) from this reserve may be spent on a single project. Funds from this reserve being used for an "other urgent need" project cannot be used for administrative costs, information technology costs, or economic development.
- (2) Approval. – The Department of Transportation shall submit for approval to the Director of the Budget all expenditures from the reserve established under this subsection.
- (3) Reporting. – At least five days, not including State holidays or weekend days, prior to submitting an expenditure request to the Director of the Budget under subdivision (2) of this subsection, the Department of Transportation shall submit a report on the expenditure request to the Fiscal Research Division and to the members of the House Appropriations Subcommittee on Transportation and the Senate Appropriations Committee on Department of Transportation. Such report shall be certified by the chief financial officer of the Department of Transportation and shall include (i) a project description, (ii) whether the project is for access and public roads or for other urgent needs, (iii) a justification of the project, (iv) the total project cost, (v) the amount of funding for the project coming from the reserve, and (vi) other funding sources for the project.
- (4) Carryforward. – If on the last day of the fiscal year the balance in the reserve established by this subsection is greater than five million dollars (\$5,000,000), then the Director of the Budget shall transfer the amount in excess of that sum to the Reserve for General Maintenance in the Highway Fund.

(g) The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars (\$100,000) before any other allocations from the appropriations for State maintenance for primary, secondary, and urban road systems are made, based upon the same proportion as is appropriated to each system."

ADJUST TURNPIKE GAP FUND APPROPRIATIONS

SECTION 24.7.(a) Any funds appropriated to the North Carolina Turnpike Authority under G.S. 136-176(b2) to cover debt service or related financing costs for the Mid-Currituck Bridge project and that remain unencumbered at the end of fiscal year 2011-2012 are hereby transferred back to the Highway Trust Fund to be appropriated and allocated as shown in this act.

SECTION 24.7.(b) Notwithstanding G.S. 136-176(b2), the funds appropriated under G.S. 136-176(b2) to the Mid-Currituck Bridge and Garden Parkway projects for fiscal year 2012-2013 are hereby transferred back to the Highway Trust Fund to be appropriated and allocated as shown in this act.

CODIFY MOBILITY FUND FORMULA DEVELOPED BY DEPARTMENT OF TRANSPORTATION

SECTION 24.8.(a) G.S. 136-188 reads as rewritten:

"§ 136-188. Use of North Carolina Mobility Fund.

(a) The Department of Transportation shall use the Mobility Fund to fund transportation projects, selected by the Department, of statewide and regional significance that relieve congestion and enhance mobility across all modes of transportation. ~~The Department of Transportation shall establish project selection criteria based on the provisions of this Article.~~

(b) ~~The~~ Notwithstanding subsections (c) and (d) of this section, the initial project funded from the Mobility Fund shall be the widening and improvement of Interstate 85 north of the Yadkin River Bridge.

(c) To be eligible for funding from the Mobility Fund, a project must meet the following requirements:

- (1) The project must be on statewide or Regional tier facilities.
- (2) The project must be ready to have funds obligated for construction within five years.
- (3) The project must be (i) consistent with MPO/RPO transportation planning efforts, (ii) included in an adopted transportation plan, and (iii) found to be consistent with local land-use plans, where available. As used in this subdivision, "MPO" means metropolitan planning organization and "RPO" means rural transportation planning organization.
- (4) The project must be in a conforming transportation plan if the project is in a non-attainment or maintenance area.
- (5) Only the project's capital costs, including right-of-way acquisition and construction, may be funded. Maintenance, operation, and planning costs may not be funded from the Mobility Fund.
- (6) There is no minimum project capital cost as a threshold for funding a project.

(d) Eligible projects shall be scored and ranked, with the highest scored projects receiving funding priority. Ranking scores shall be determined according to the following formula:

- (1) Mobility benefit-cost. – Eighty percent (80%) of the ranking score shall be the estimated travel time savings in vehicle hours that the project will provide over 30 years divided by the cost of the project to the Mobility Fund.
- (2) Multimodal/intermodal. – Twenty percent (20%) of the ranking score shall be based on whether the project provides an improvement to more than one mode of transportation and what types of other modes of transportation are involved in the project. Using a scale from zero to 100, the Department of Transportation shall provide for the assignment of points under this subdivision. The Department's determination of a point system under this subdivision shall not be subject to rulemaking under Chapter 150B of the General Statutes."

SECTION 24.8.(b) Section 28.33(c) of S.L. 2011-145 is repealed.

CIVIL PENALTIES TO BE TREATED AS RECEIPTS FOR TRANSFER TO CIVIL PENALTY AND FORFEITURE FUND

SECTION 24.9. The clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by the Department of Transportation for transfer to the Civil Penalty and Forfeiture Fund and which are currently recorded as revenue in the Highway Fund (Budget Code 84210) shall be eliminated from the Estimated Revenue for the Highway Fund. The corresponding Highway Fund appropriation in Fund 150889 shall also be eliminated.

Rather than recording the proceeds as revenue, the clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by the Department of Transportation for transfer to the Civil Penalty and Forfeiture Fund shall be recorded as receipts and budgeted in a totally receipt-supported fund center (150889) in the Highway Fund (Budget Code 84210) for transfer to the Civil Penalty and Forfeiture Fund.

POSITIONS IN SUPPORT OF THE COMBINED MOTOR VEHICLE REGISTRATION AND PROPERTY TAX COLLECTION SYSTEM

SECTION 24.10.(a) Upon request from the Department of Transportation and notwithstanding any other provision of law to the contrary, the Office of State Budget and Management may authorize the creation of time-limited, full-time equivalent positions within the Department of Transportation and its Division of Motor Vehicles in excess of the positions authorized by this act for the sole purposes of implementing and administering the combined motor vehicle registration and property tax collection system, in accordance with the funding authorizations in G.S. 105-330.5 and G.S. 105-330.10. Positions created under this authorization shall terminate no later than June 30, 2014. Following the approval of a request, the Office of State Budget and Management shall direct the transfer of funds from the Combined Motor Vehicle and Registration Account, also known as the Division of Motor Vehicles Taxation Interest Fund for Integrated Computer System, to support personnel and related operating costs for the positions approved under this section.

SECTION 24.10.(b) Beginning October 1, 2012, the Office of State Budget and Management shall report quarterly on all transfers of funds from the Combined Motor Vehicle and Registration Account (Combined Account) and positions supported by the Combined Account during the 2012-2013 fiscal year to the House Appropriations Subcommittee on Transportation, the Senate Appropriations Committee on Department of Transportation, the Joint Legislative Transportation Oversight Committee, and the Fiscal Research Division. The report shall include, at a minimum, the following:

- (1) A summary of activities funded by the Combined Account to date.
- (2) Amounts transferred from the Combined Account and expended per activity.
- (3) A detailed listing of positions funded by receipts to the Combined Account, identifying the position number, title, effective date and duration, cost, functions performed, and organizational unit to which the position is assigned.

SECTION 24.10.(c) No later than May 1, 2013, the Department of Revenue and the Department of Transportation shall jointly report on the status of the Memorandum of Understanding required by G.S. 105-330.11 to the following: the House Appropriations Subcommittee on Transportation, the Senate Appropriations Committee on Department of Transportation, the cochairs of the House Appropriations Committee, the cochairs of the Senate Appropriations/Base Budget Committee, and the Fiscal Research Division. The report shall identify the estimated recurring costs of system administration and proposed administrative fees to support the costs of combined notice generation and collection of registration fees and vehicle property taxes.

REDUCE MOTOR FUEL EXCISE TAX RATE

SECTION 24.11. Notwithstanding G.S. 105-449.80(a), for the period July 1, 2012, through June 30, 2013, the motor fuel excise tax rate may not exceed thirty-seven and one-half cents (37 1/2¢) a gallon.

USE OF UNEXPENDED CONTINGENCY FUNDS

SECTION 24.12. Notwithstanding any other provision of law and not including the funds appropriated in Section 28.6(2) of S.L. 2011-145 for the 2011-2013 fiscal biennium, the sum of twenty-two million dollars (\$22,000,000) is transferred from the unexpended balance of contingency fund appropriations to the Highway Fund. That sum is appropriated and allocated as shown in this act.

INCREASE GENERAL FUND TRANSFER FROM HIGHWAY FUND

SECTION 24.13. Notwithstanding Section 28.27(b) of S.L. 2011-145 or any other provision of that act, as amended, the amount transferred from the Highway Fund to the

General Fund under that act is hereby increased by eight million dollars (\$8,000,000) in fiscal year 2012-2013.

EXEMPT B.S.I.P. SYSTEM FROM INFORMATION TECHNOLOGY HOSTING REQUIREMENT

SECTION 24.14. Section 6A.2(f) of S.L. 2011-145, as amended by Section 11(c) of S.L. 2011-391, reads as rewritten:

"SECTION 6A.2.(f) Information Technology Hosting. – State agencies developing and implementing information technology projects/applications shall use the State infrastructure to host their ~~projects~~, projects, except for the SAP Business System Integration Portal (BSIP) system of the North Carolina Department of Transportation. An exception to this requirement may be granted only if approved by either the State Chief Information Officer on the basis of technology requirements or by the Office of State Budget and Management based on cost savings, subject to consultation with the Joint Legislative Commission on Governmental Operations and a report to the Joint Legislative Oversight Committee on Information Technology.

Projects/applications currently hosted outside the State infrastructure shall be returned to State infrastructure not later than the end of any current contract.

By October 1, 2011, the State Chief Information Officer shall report to the Joint Legislative Oversight Committee on Information Technology regarding projects currently hosted outside State infrastructure and a schedule to return those projects to State infrastructure."

PRIORITIZE PAVING OF UNPAVED ROADS THROUGHOUT THE STATE

SECTION 24.15. For fiscal year 2012-2013, the Department of Transportation shall expend funds allocated to the paving of unpaved secondary roads for the paving of unpaved secondary roads based on a statewide prioritization. The Department shall pave the eligible unpaved secondary roads that receive the highest priority ranking within this statewide prioritization, notwithstanding the distribution formula in G.S. 136-17.2A or any other funding distribution formula in law. This section applies to funding for the paving of secondary roads from both the Highway Fund and the Highway Trust Fund.

APPLY STATE ETHICS ACT TO METROPOLITAN PLANNING ORGANIZATIONS AND RURAL PLANNING ORGANIZATIONS

SECTION 24.16.(a) G.S. 136-202 is amended by adding a new subsection to read:

"(e) A Metropolitan Planning Organization shall be treated as a board for purposes of Chapter 138A of the General Statutes."

SECTION 24.16.(b) G.S. 136-211 is amended by adding a new subsection to read:

"(e) Ethics Requirements. – A Rural Transportation Planning Organization shall be treated as a board for purposes of Chapter 138A of the General Statutes."

SECTION 24.16.(c) Members of Metropolitan Planning Organizations and Rural Transportation Planning Organizations shall file an initial Statement of Economic Interest with the State Ethics Commission no later than April 15, 2013. All information provided in the Statement of Economic Interest shall be current as of December 31, 2012. The initial Statement of Economic Interest shall be filed electronically.

SECTION 24.16.(d) This section becomes effective January 1, 2013.

CLARIFY FERRY TOLLING

SECTION 24.18.(a) G.S. 136-82 reads as rewritten:

"§ 136-82. Department of Transportation to establish and maintain ferries.

The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may so require, and ~~to prescribe and shall collect such tolls therefor as may, in the discretion of the Department of Transportation, be expedient.~~ tolls, as established

by the Board of Transportation, on the ferry routes. The Board of Transportation shall establish tolls for all ferry routes, except for the Ocracoke/Hatteras Ferry and the Knotts Island Ferry.

To accomplish the purpose of this section said Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of such ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay therefor such reasonable sums as may in the opinion of said Department of Transportation represent the fair value of the public service rendered.

The Department of Transportation, notwithstanding any other provision of law, may operate, or contract for the operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, and souvenirs publicizing the ferry system."

SECTION 24.18.(b) The Department of Transportation shall disregard Executive Order No. 116, or any other executive order pertaining to ferry tolls, and shall collect the tolls required by S.L. 2011-145 and this section, except for the Cherry Branch/Minnesott Beach route, for which the Department of Transportation shall not collect the increased tolls required by S.L. 2011-145 during fiscal year 2012-2013.

PUBLIC TRANSPORTATION FUNDING ADJUSTMENTS

SECTION 24.19.(a) The Regional New Starts & Capital Program within the Public Transportation Division of the Department of Transportation is eliminated. The unexpended balance of funds for this program is reallocated to the LYNX Blue Line Extension/Northeast Corridor project.

SECTION 24.19.(b) Effective July 1, 2013, G.S. 136-176 is amended by adding a new subsection to read as follows:

"§ 136-176. **Creation, revenue sources, and purpose of North Carolina Highway Trust Fund.**

...

(e) Subject to G.S. 136-17.2A and other funding distribution formulas, funds allocated under subdivisions (1), (3), and (4) of subsection (b) of this section may also be used for fixed guideway projects, including providing matching funds for federal grants for fixed guideway projects."

REPEAL PROGRAM EVALUATION DIVISION STUDY OF NORTH CAROLINA RAILROAD COMPANY

SECTION 24.20. Section 28.12A of S.L. 2011-145, as amended by Section 52 of S.L. 2011-391, is repealed.

STUDY INTERSTATE 95 TOLLING

SECTION 24.21.(a) The Department of Transportation shall conduct a comprehensive study of the transportation corridor containing Interstate 95, including, but not limited to, the following:

- (1) The economic impact of tolling the present road on the residents and businesses along the Interstate 95 corridor.
- (2) The impact of tolling the present road on the alternative routes to Interstate 95, including expected increased traffic on those routes, any safety issues created by any increased traffic on those routes, and expected travel time delays for drivers using the alternative routes.
- (3) New or existing alternative routes for Interstate 95.
- (4) Options for funding to make critical repairs and lane mile expansions to Interstate 95 without the use of tolls.

The Department shall solicit feedback on its various tolling proposals from the local governments and residents along the Interstate 95 corridor.

SECTION 24.21.(b) The Department of Transportation shall report the results of its study to the 2013 General Assembly by March 1, 2013.

SECTION 24.21.(c) Notwithstanding G.S. 136-89.198, the Department of Transportation shall not establish or collect tolls on Interstate 95 prior to July 1, 2014.

PART XXV. SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE

SECTION 25.01.(a) Section 29.1(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.1.(a)** Effective for the ~~2011-2013 fiscal biennium,~~2011-2012 fiscal year, the salary of the Governor set by G.S. 147-11(a) in the amount of one hundred thirty-nine thousand five hundred ninety dollars (\$139,590) annually, payable monthly, shall remain unchanged."

SECTION 25.01.(b) G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred thirty nine thousand five hundred ninety dollars (\$139,590)~~one hundred forty-one thousand two hundred sixty-five dollars (\$141,265) annually, payable monthly."

SECTION 25.01.(c) The prefatory language contained in Section 29.1(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.1.(b)** Effective for the ~~2011-2013 fiscal biennium,~~2011-2012 fiscal year, the annual salaries for the members of the Council of State, payable monthly,~~for the 2011-2013 fiscal biennium shall remain unchanged as follows:~~ are set as follows:"

SECTION 25.01.(d) Effective for the 2012-2013 fiscal year, the annual salaries for members of the Council of State, payable monthly, are set as follows:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$124,676
Attorney General	124,676
Secretary of State	124,676
State Treasurer	124,676
State Auditor	124,676
Superintendent of Public Instruction	124,676
Agriculture Commissioner	124,676
Insurance Commissioner	124,676
Labor Commissioner	124,676

NONELECTED DEPARTMENT HEADS

SECTION 25.02.(a) Section 29.2(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.2.(a)** Effective for the ~~2011-2013 fiscal biennium,~~2011-2012 fiscal year, the salaries set by G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments ~~remain unchanged~~are set as follows:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$120,363
Secretary of Cultural Resources	120,363
Secretary of Commerce	120,363
Secretary of Environment and Natural Resources	120,363
Secretary of Health and Human Services	120,363
Secretary of Public Safety	120,363
Secretary of Revenue	120,363
Secretary of Transportation	120,363".

SECTION 25.02.(b) Effective July 1, 2012, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments are set as follows:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$121,807
Secretary of Cultural Resources	121,807
Secretary of Commerce	121,807
Secretary of Environment and Natural Resources	121,807
Secretary of Health and Human Services	121,807
Secretary of Public Safety	121,807
Secretary of Revenue	121,807
Secretary of Transportation	121,807

SECTION 25.02.(c) G.S. 143B-9 reads as rewritten:

"§ 143B-9. Appointment of officers and employees.

The head of each principal State department, except those departments headed by popularly elected officers, shall be appointed by the Governor and serve at his pleasure.

The salary of the head of each of the principal State departments shall be set by the Governor, and the salary of elected officials shall be as provided by law.

The head of a principal State department shall appoint a chief deputy or chief assistant, and such chief deputy or chief assistant shall not be subject to the State Personnel Act. The salary of such chief deputy or chief assistant ~~shall, upon the recommendation of the Governor, be set by the General Assembly~~, shall be set by the Governor. Unless otherwise provided for in the Executive Organization Act of 1973, and subject to the provisions of the Personnel Act, the head of each principal State department shall designate the administrative head of each transferred agency and all employees of each division, section, or other unit of the principal State department."

SECTION 25.02.(d) Subsection (c) of this section applies to persons appointed on or after January 1, 2013. Subsection (b) of this section does not apply to such persons.

CERTAIN EXECUTIVE BRANCH OFFICIALS

SECTION 25.1.(a) Section 29.3 of S.L. 2011-145 reads as rewritten:

"CERTAIN EXECUTIVE BRANCH OFFICIALS

"SECTION 29.3. Effective for the ~~2011-2013 fiscal biennium~~, 2012-2013 fiscal year, the annual salaries, payable monthly, for the following executive branch officials ~~shall remain unchanged~~ are set as follows:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	\$109,553 <u>\$110,868</u>
State Controller	153,349 <u>155,159</u>
Commissioner of Motor Vehicles	109,553 <u>110,868</u>
Commissioner of Banks	123,198 <u>124,676</u>
Chairman, Employment Security Commission	120,363
<u>Chair, Board of Review, Division of Employment Security</u>	<u>122,255</u>
<u>Members, Board of Review, Division of Employment Security</u>	<u>120,737</u>
State Personnel Director	120,363 <u>121,807</u>
Chairman, Parole Commission	100,035 <u>101,235</u>
<u>Full-time Members of the Parole Commission</u>	<u>93,464</u>
<u>Part-time Members of the Parole Commission</u>	46,178 <u>46,732</u>
Chairman, Utilities Commission	137,203 <u>138,849</u>
Members of the Utilities Commission	123,198 <u>124,676</u>
Executive Director, Agency for Public Telecommunications	
Telecommunications	<u>92,356</u>

Director, Museum of Art	112,256 113,603
Executive Director, North Carolina Agricultural Finance Authority	106,635107,915
State Chief Information Officer	153,227 155,066".

SECTION 25.1.(b) G.S. 20-2(a) reads as rewritten:

"(a) Commissioner and Assistants. – The Division of Motor Vehicles shall be administered by the Commissioner of Motor Vehicles, who shall be appointed by and serve at the pleasure of the Secretary of the Department of Transportation. The Commissioner shall be paid an annual salary to be fixed by the ~~General Assembly in the Current Operations Appropriations Act~~ Governor and allowed his traveling expenses as allowed by law.

In any action, proceeding, or matter of any kind, to which the Commissioner of Motor Vehicles is a party or in which he may have an interest, all pleadings, legal notices, proof of claim, warrants for collection, certificates of tax liability, executions, and other legal documents, may be signed and verified on behalf of the Commissioner of Motor Vehicles by the Assistant Commissioner of Motor Vehicles or by any director or assistant director of any section of the Division of Motor Vehicles or by any other agent or employee of the Division so authorized by the Commissioner of Motor Vehicles."

SECTION 25.1.(c) G.S. 126-3(a) reads as rewritten:

"(a) There is hereby established the Office of State Personnel (hereinafter referred to as "the Office") which shall be placed for organizational purposes within the Department of Administration. Notwithstanding the provisions of North Carolina State government reorganization as of January 1, 1975, and specifically notwithstanding the provisions of Chapter 864 of the 1971 North Carolina Session Laws [Chapter 143A], the Office of State Personnel shall exercise all of its statutory powers in this Chapter independent of control by the Secretary of Administration and shall be under the administration and supervision of a State Personnel Director (hereinafter referred to as "the Director") appointed by the Governor and subject to the supervision of the Commission for purposes of this Chapter. The salary of the Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act~~ Governor. The Director shall serve at the pleasure of the Governor."

SECTION 25.1.(d) G.S. 140-5.15(c) reads as rewritten:

"(c) The State-funded portion of the salary of the Director shall be fixed by the ~~General Assembly in the Current Operations Appropriations Act~~ Governor."

SECTION 25.1.(e) G.S. 147-33.76(c) reads as rewritten:

"(c) The salary of the State Chief Information Officer shall be set by the ~~General Assembly in the Current Operations Appropriations Act~~ Governor. The State Chief Information Officer shall receive longevity pay on the same basis as is provided to employees of the State who are subject to the State Personnel Act."

SECTION 25.1.(f) Subsections (b) through (e) of this section apply to persons appointed to the positions of Commissioner of Motor Vehicles, State Personnel Director, Director of the North Carolina Museum of Art, and State Chief Information Officer on or after January 1, 2013. Subsection (a) of this section does not apply to such persons.

SECTION 25.1.(g) Effective August 1, 2012, G.S. 143B-721 reads as rewritten:

"§ 143B-721. **Post-Release Supervision and Parole Commission – members; selection; removal; chairman; compensation; quorum; services.**

(a) Effective August 1, 2005, the Post-Release Supervision and Parole Commission shall consist of one full-time member and two half-time members. The three members shall be appointed by the Governor from persons whose recognized ability, training, experience, and character qualify them for service on the Commission. The terms of office of any members serving on the Commission on June 30, 2005, shall expire on that date. The terms of office of persons appointed by the Governor as members of the Commission shall be for four years or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Commission created by the resignation, removal, death or disability of a member shall be for the balance of the unexpired term only.

(a1) Effective August 1, 2012, both half-time commissioners shall begin serving as full-time members of the Commission, and the Post-Release Supervision and Parole Commission shall consist of three full-time members.

(a2) Effective February 1, 2013, an additional member shall be appointed by the Governor to the Commission, and the Post-Release Supervision and Parole Commission shall consist of four full-time members.

(b) All members of the Post-Release Supervision and Parole Commission appointed by the Governor shall possess the recognized ability, training, experience, and character to qualify each person to serve ably on the Commission.

(c) The Governor shall have the authority to remove any member of the Commission from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of G.S. 143B-13. The Governor shall designate a member of the Commission to serve as chair of the Commission at the pleasure of the Governor.

(d) The granting, denying, revoking, or rescinding of parole, the authorization of work-release privileges to a prisoner, or any other matters of business coming before the Commission for consideration and action shall be decided by majority vote of the full Commission.

(e) The members of the Commission shall receive the salary fixed by the General Assembly in the Current Operations Appropriations Act and shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-6. Notwithstanding any other provision of law, the half-time members of the Commission shall not be subject to the provisions of G.S. 135-3(8)(c).

(f) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Public Safety."

JUDICIAL BRANCH

SECTION 25.1A.(a) Section 29.4(a) of S.L. 2011-145 reads as rewritten:

"SECTION 29.4.(a) Effective for the ~~2011-2013 fiscal biennium,~~2012-2013 fiscal year, the annual salaries, payable monthly, for specified judicial branch officials ~~shall remain unchanged~~are set as follows:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$140,932 <u>\$142,623</u>
Associate Justice, Supreme Court	137,249 <u>138,896</u>
Chief Judge, Court of Appeals	135,061 <u>136,682</u>
Judge, Court of Appeals	131,531 <u>133,109</u>
Judge, Senior Regular Resident Superior Court	127,957 <u>129,492</u>
Judge, Superior Court	124,382 <u>125,875</u>
Chief Judge, District Court	112,946 <u>114,301</u>
Judge, District Court	109,372 <u>110,684</u>
District Attorney	119,305 <u>120,737</u>
Administrative Officer of the Courts	126,738 <u>128,259</u>
Assistant Administrative Officer of the Courts	115,763 <u>117,152</u>
Public Defender	119,305 <u>120,737</u>
Director of Indigent Defense Services	123,022 <u>124,498"</u>

SECTION 25.1A.(b) The annual salaries of permanent full-time employees of the Judicial Department whose salaries are not itemized in this act shall be increased by one and two-tenths percent (1.2%).

SECTION 25.1A.(c) Section 29.4(b) of S.L. 2011-145 reads as rewritten:

"SECTION 29.4.(b) Effective for the ~~2011-2013 fiscal biennium,~~2011-2012 fiscal year, the annual salaries of employees of the Judicial Department shall remain unchanged as follows:

- (1) The annual salaries of permanent full-time and part-time employees of the Judicial Department whose salaries are not itemized in this act shall remain unchanged.
- (2) Notwithstanding anything to the contrary, the annual salaries of clerks of superior court under G.S. 7A-101(a) shall not change when a county changes from one population group to another.
- (3) The annual salaries of assistant and deputy clerks of court set under G.S. 7A-102(c1) shall remain unchanged for the 2011-2013 fiscal biennium.
- (4) The annual salaries of magistrates set under G.S. 7A-171.1(a) or G.S. 7A-171.1(a1)(1) shall remain unchanged."

SECTION 25.1A.(d) 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-one thousand seven hundred ninety-seven dollars (\$71,797) and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-seven thousand six hundred twenty-eight dollars (\$37,628), effective July 1, 2012.

SECTION 25.1A.(e) 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	\$ 82,401 <u>\$ 83,390</u>
100,000 to 149,999	92,468 <u>93,578</u>
150,000 to 249,999	102,536 <u>103,766</u>
250,000 and above	112,607 <u>113,958</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."

SECTION 25.1A.(f) 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	\$32,222 <u>\$32,609</u>
Maximum	54,767 <u>55,424</u>
Deputy Clerks	Annual Salary
Minimum	\$27,888 <u>\$28,223</u>
Maximum	42,596 <u>43,107</u> ".

SECTION 25.1A.(g) G.S. 7A-171.1(a)(1) reads as rewritten:

"(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	\$32,633 \$33,025
Step 1	35,525 35,951
Step 2	38,671 39,135
Step 3	42,134 42,640
Step 4	45,999 46,551
Step 5	50,335 50,959
Step 6	55,238 55,901".

SECTION 25.1A.(h) 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	\$26,528 \$26,846
1 or more but less than 3 years of service	27,695 28,027
3 or more but less than 5 years of service	30,044 30,405

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a)."

LEGISLATIVE BRANCH**SECTION 25.1B.(a)** Section 29.5 of S.L. 2011-145 reads as rewritten:**"GENERAL ASSEMBLY**

"SECTION 29.5. For the 2011-2013 fiscal biennium, the salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3, as provided in 1994 by the 1993 General Assembly. Effective for the 2011-2013 fiscal biennium, 2011-2012 fiscal year, salaries in the legislative branch shall remain unchanged, as follows:

- (1) ~~The salaries of members and officers of the General Assembly shall remain unchanged at the amounts set under G.S. 120-3, as provided in 1994 by the 1993 General Assembly.~~
- (2) The annual salaries set by G.S. 120-37(c) for the principal clerks in each house shall remain unchanged.
- (3) The annual salaries set by G.S. 120-37(b) of the sergeant-at-arms and the reading clerk in each house shall remain unchanged.
- (4) The annual salaries of the Legislative Services Officer and of nonelected employees of the General Assembly set under G.S. 120-32 shall remain unchanged."

SECTION 25.1B.(b) 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 four thousand eighty four dollars (\$104,084)~~ one hundred five thousand three hundred thirty-three dollars (\$105,333), 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."

SECTION 25.1B.(c) 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 eighty dollars (\$380.00)~~ three hundred eighty-five dollars (\$385.00) 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."

SECTION 25.1B.(d) The Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect on June 30, 2012, by one and two-tenths percent (1.2%).

COMMUNITY COLLEGES PERSONNEL

SECTION 25.1C.(a) Section 29.6 of S.L. 2011-145 reads as rewritten:

"COMMUNITY COLLEGES PERSONNEL

"SECTION 29.6.(a) The annual salaries of all community college nonfaculty and professional staff whose salaries are supported from the State's General Fund shall remain unchanged for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year.

"SECTION 29.6.(b) For the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the annual salaries of all community college faculty whose salaries are supported from the State's General Fund shall remain unchanged. The minimum salaries for nine-month, full-time curriculum community college faculty shall also remain unchanged as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	\$34,314
Associate Degree or Equivalent	\$34,819
Bachelor's Degree	\$37,009
Master's Degree or Education Specialist	\$38,952
Doctoral Degree	\$41,753.

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members."

SECTION 25.1C.(b) For the 2012-2013 fiscal year, the Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act to the State Board of Community Colleges funds sufficient to provide community college employees a salary increase of one and two-tenths percent (1.2%), including funds for the employers' retirement and social security contributions. These compensation funds may be used for any one or more of the following: (i) merit pay increases, (ii) across-the-board increases, (iii) recruitment bonuses, (iv) retention increases, (v) any other compensation increase, (vi) to offset the management flexibility reduction, or (vii) employ personnel. Categories (i) through (v) shall be pursuant to policies adopted by the State Board of Community Colleges. The State Board of Community Colleges shall make a preliminary report on the use of these funds to the 2013 Regular Session of the General Assembly no later than March 1, 2013, and a final report on September 1, 2013.

UNIVERSITY OF NORTH CAROLINA SYSTEM

SECTION 25.1D.(a) Section 29.7 of S.L. 2011-145 reads as rewritten:

"UNIVERSITY OF NORTH CAROLINA SYSTEM

"SECTION 29.7.(a) The annual salaries of all University of North Carolina EPA faculty, EPA nonfaculty, SPA employees, and teachers employed by the North Carolina School of Science and Math shall remain unchanged for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year.

"**SECTION 29.7.(b)** The annual salaries of all employees of the University of North Carolina Health Care System and the Medical Faculty Practice Plan at East Carolina University shall remain unchanged for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year."

SECTION 25.1D.(b) For the 2012-2013 fiscal year, the Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act to the Board of Governors of The University of North Carolina funds sufficient to provide employees who are exempt from the State Personnel Act (EPA) a salary increase of one and two-tenths percent (1.2%), including funds for the employers' retirement and social security contributions. These compensation funds may be used to award compensation increases to EPA employees, pursuant to policies adopted by the Board of Governors, including, but not limited to, any one or more of the following: (i) merit pay increases, (ii) across-the-board increases, (iii) recruitment bonuses, and (iv) retention increases. These compensation funds may also be used for one or more of the following (i) to offset the management flexibility reduction, or (ii) employ personnel. The Board of Governors shall make a preliminary report on the use of funds under this subsection to the 2013 Regular Session of the General Assembly no later than March 1, 2013, and a final report on September 1, 2013.

SECTION 25.1D.(c) For the 2012-2013 fiscal year, the Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act to the Board of Governors of The University of North Carolina funds sufficient to provide to employees who are subject to the State Personnel Act (SPA) a salary increase of one and two-tenths percent (1.2%), including funds for the employers' retirement and social security contributions.

MOST STATE EMPLOYEES

SECTION 25.1E.(a) Section 29.9 of S.L. 2011-145 reads as rewritten:

"MOST STATE EMPLOYEES

"**SECTION 29.9.(a)** Effective for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the salaries in effect June 30, 2011, of all permanent, full-time State employees whose salaries are set in accordance with the State Personnel Act, shall remain unchanged.

"**SECTION 29.9.(b)** Effective for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the compensation of permanent, full-time State officials and persons in exempt positions shall remain unchanged.

"**SECTION 29.9.(c)** Effective for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the salaries of permanent, part-time State employees shall remain unchanged.

"**SECTION 29.9.(d)** Effective for the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the compensation of temporary and permanent hourly State employees shall remain unchanged."

SECTION 25.1E.(b) For the 2012-2013 fiscal year, the salaries in effect June 30, 2012, for the following employees shall be increased by one and two-tenths percent (1.2%), effective July 1, 2012:

- (1) Permanent full-time State officials and persons whose salaries are set in accordance with the State Personnel Act.
- (2) Permanent full-time State officials and persons in positions exempt from the State Personnel Act.
- (3) Permanent part-time State employees.

SECTION 25.1E.(c) For the 2012-2013 fiscal year, the rate of pay of temporary State employees and permanent hourly State employees may be increased on an equitable basis (i) subject to the availability of funds in the employing State agency, department, or institution and (ii) within regular State Budget Act procedures consistent with this act.

SECTION 25.1E.(d) Section 29.10(b) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.10.(b)** For the ~~2011-2013 fiscal biennium~~, 2011-2012 fiscal year, the salaries of permanent, full-time employees who work a nine-, ten-, or eleven-month work year schedule shall remain unchanged."

ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

SECTION 25.1F.(a) The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2012-2013 all funds necessary for the salary increases provided by this act, including funds for the employers' retirement and social security contributions.

SECTION 25.1F.(b) 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. Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

SECTION 25.1F.(c) The fiscal year 2012-2013 salary increases provided in this act are to be effective July 1, 2012, and 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, 2012.

SECTION 25.1F.(d) 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 25.1F.(e) Payroll for employees on or after July 1, 2012, which represent payment of services provided prior to 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 25.1F.(f) Except as otherwise provided by this act, for the 2012-2013 fiscal year, permanent full-time State agency employees and State-funded public school employees who work a nine-, 10-, or 11-month work year schedule shall receive the one and two-tenths percent (1.2%) annual increase provided by this act.

SALARY ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES ONLY/NO AUTOMATIC INCREASES

SECTION 25.2. Section 29.8 of S.L. 2011-145, as amended by Section 59A of S.L. 2011-391, reads as rewritten:

"SECTION 29.8.(a) The annual pay of all State employees for the ~~2011-2013 fiscal biennium~~ 2011-2012 fiscal year shall remain unchanged from that authorized on June 30, 2011, or the last date in pay status during the 2010-2011 fiscal year, if earlier, except that an increase may be allowed during the 2011-2012 fiscal year under the following special circumstances:

- (1) For all State employees regardless of funding source, and for employees of the North Carolina Community College System and local school boards who are paid from State funds, salaries may be increased for reallocations or promotions, in-range adjustments for job change, career progression adjustments for demonstrated competencies, or any other adjustment related to an increase in job duties or responsibilities, none of which are subject to the salary freeze otherwise provided by this Part. All other salary increases are prohibited.
- (1a) For employees of the North Carolina Community College System, notwithstanding subdivision (1) of this subsection, salaries may be increased if the increase is funded from local funding sources.
- (2) For The University of North Carolina, (i) faculty using funds from the Faculty Recruiting and Retention Fund, the Distinguished Professors Endowment Fund, or the University Cancer Research Fund in the case of faculty involved in cancer research supported by that fund and (ii) faculty, nonfaculty, and other employee adjustments, including retention adjustments, funded from non-State funding sources.

- (3) For employees of the judicial branch, for local supplementation as authorized by G.S. 7A-300.1.

The cumulative salary adjustment allowed under this subsection for the 2011-2012 fiscal year may exceed ten percent (10%) of annual salary only if the adjustment is approved in advance by the Office of State Budget and Management, The University of North Carolina Board of Governors, the Board of the North Carolina Community College System, the Legislative Services Commission, the local board of education, or other authorized body as appropriate.

"SECTION 29.8.(b) The automatic salary step increases for assistant and deputy clerks of superior court and magistrates are suspended for the 2011-2013 fiscal biennium.

"SECTION 29.8.(c) The salary increase provisions of G.S. 20-187.3 are suspended for the 2011-2013 fiscal biennium.

"SECTION 29.8.(d) Notwithstanding G.S. 53-96.1, ~~and except as provided by subdivision (1) of subsection (a) of this section,~~ employees of the Office of the Commissioner of Banks shall not be awarded compensation increases or bonuses during the 2011-2013 fiscal biennium. Employees of the Office of the Commissioner of Banks shall receive an across-the-board salary increase of one and two-tenths percent (1.2%) for the 2012-2013 fiscal year, as provided in section 25.1E of The Current Operations and Capital Improvements Appropriations Act of 2012.

"SECTION 29.8.(e) Employees of the Lottery Commission shall not receive compensation bonuses during the 2011-2013 fiscal biennium. Employees of the Lottery Commission shall receive an across-the-board salary increase of one and two-tenths percent (1.2%) for the 2012-2013 fiscal year, as provided in section 25.1E of The Current Operations and Capital Improvements Appropriations Act of 2012.

~~**"SECTION 29.8.(f)** No employee of any other State agency or constituent institution of The University of North Carolina, excluding employees of the University of North Carolina Health Care System and employees participating in a constituent institution's medical faculty practice plan, shall receive compensation bonuses."~~

REPEAL OF PROVISIONS RELATED TO COMPENSATION ADJUSTMENT AND PERFORMANCE PAY RESERVE

SECTION 25.2A. Section 29.20A of S.L. 2011-145 is repealed.

MONITOR MOST SALARY INCREASES

SECTION 25.2B. Section 29.19 of S.L. 2011-145 reads as rewritten:

"SECTION 29.19.(a) The Office of State Budget and Management and the Office of State Personnel shall monitor jointly ~~the compliance of salary increases awarded by the following units of government with the provisions of Section 29.8 of this act~~ and shall submit quarterly reports of their monitoring activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division: (i) State agencies, departments, and institutions, including authorities, boards, and commissions; (ii) the judicial branch; and (iii) The University of North Carolina and its constituent institutions.

The quarterly reports required by this section shall include the following information:

- (1) For agencies reporting through the BEACON HR/Payroll system, (i) a breakdown by action type ~~(including~~ (including, but not limited to, promotion, reallocation, career progression, salary adjustment, range revision, equity and any similar actions increasing employee pay) of the number and annual amount of those increases and (ii) a breakdown by action reason (including in-range higher level, acting pay, trainee adjustment, and other similar action reasons) of the number and annual amount of those action types coded as salary adjustment.
- (2) For The University of North Carolina and its constituent institutions, a breakdown of the number and annual amount of those increases categorized by the University as promotions, changes in job duties or responsibilities,

Distinguished Professorships, retention pay, career progression, and any other similar actions increasing employee pay.

- (3) ~~A summary of actions taken by the Office of State Budget and Management and the Office of State Personnel with respect to unauthorized salary increases.~~

"SECTION 29.19.(b) The Legislative Services Officer shall report quarterly to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on compliance with this act."

REPEAL COMPREHENSIVE COMPENSATION SYSTEM

SECTION 25.2C.(a) The catch line of G.S. 126-7 reads as rewritten:

"§ 126-7. ~~Compensation of State employees.~~Annual Compensation Survey."

SECTION 25.2C.(b) G.S. 126-7(a), (a2), (b1), (c), and (e) are repealed.

SECTION 25.2C.(c) G.S. 126-7(b) reads as rewritten:

"(b) To guide the Governor and the General Assembly in making ~~appropriations to fund the Comprehensive Compensation System,~~decisions regarding the compensation of State employees, the State Personnel Commission shall conduct annual compensation surveys. The Commission shall present the results of the compensation survey to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the legislature in odd years and May 1st of even years."

SECTION 25.2C.(d) G.S. 20-187.3(a) reads as rewritten:

"(a) The Secretary of Public Safety shall not make or permit to be made any order, rule, or regulation requiring the issuance of any minimum number of traffic citations, or ticket quotas, by any member or members of the State Highway Patrol. Pay and promotions of members of the Highway Patrol shall be based on their overall job performance and not on the basis of the volume of citations issued or arrests made. ~~The provisions of G.S. 126-7 shall not apply to members of the State Highway Patrol.~~ Members of the Highway Patrol ~~shall, however,~~shall be subject to salary classes, ranges and longevity pay for service as are applicable to other State employees generally. Beginning July 1, 1985, and annually thereafter, each member of the Highway Patrol shall be granted a salary increase in an amount corresponding to the increments between steps within the salary range established for the class to which the member's position is assigned by the State Personnel Commission, not to exceed the maximum of each applicable salary range."

COMPREHENSIVE REVIEW FOR REFORM OF PUBLIC EMPLOYEE COMPENSATION PLANS/RECOMMENDATIONS FOR LEGISLATION BY MARCH 1, 2013

SECTION 25.2D. Section 29.20 of S.L. 2011-145 reads as rewritten:

"SECTION 29.20.(a) It is the intent of the General Assembly to create and implement a modernized, fair, and fully functional performance-based compensation system for employees of State agencies, departments, ~~institutions, and institutions~~ and for employees of The University of North Carolina System, the North Carolina Community College System, and local education agencies. ~~System who are subject to the State Personnel Act.~~ To that end, the Legislative Services Commission, jointly through the Fiscal Research and Program Evaluation Divisions, is directed to commission a review and study of the current compensation plans of State agencies, departments, ~~institutions, and institutions~~ and employees of The University of North Carolina System, the North Carolina Community College System, and local education agencies. ~~System who are subject to the State Personnel Act~~ (government sectors). The Legislative Services Commission may use a Request for Information process or a Request for Proposals process to contract with a qualified consulting firm to perform this review and study. The study, at minimum, shall include all of the following:

- (1) A labor market analysis of pay, fringe benefits, classification, and banding plans of government sector employees to determine whether current

- employees are compensated appropriately relative to market rates for similar positions as compared to (i) other North Carolina public employees, (ii) similar positions and employees in other states, and (iii) where applicable, employees in private industry.
- (2) An analysis of current performance-based compensation plans in use by the North Carolina Banking ~~Commission, Commission and~~ the University of North Carolina Health Care System, ~~and the performance-based compensation system proposed by Charlotte/Mecklenburg County Schools, System.~~ This analysis should include an assessment of the effectiveness of these performance-based plans and should include identification of best practices.
 - (3) An evaluation of current longevity pay as applicable to most government sector employees and recommendations as to whether longevity pay should be continued for new hires.
 - (4) An evaluation of current laws and policies related to "career status" for employees subject to the State Personnel Act ~~and tenure for public school teachers and university professors. For public school teachers, the evaluation of tenure shall include its relationship with student performance, if any. Act.~~ This evaluation should also include recommendations as to whether these laws and policies should be continued or modified based upon human resource best practices.
 - (5) ~~An evaluation of salary supplements for public school employees paid on account of master's degrees, attainment of other advanced degrees, and national board certification, including the relationship to student performance, if any. This evaluation should also include recommendations as to whether these salary supplements should be continued or modified based upon the effect on student performance, if any, and human resource best practices.~~
 - (6) An evaluation of the State Personnel Act, including recommendations as to whether these laws and policies should be continued or modified based upon human resource best practices.
 - (7) An analysis of the effect of in-State regional variables on employee compensation and recommendations as to how those variables should be addressed in the future.
 - (8) Recommendations of how to evaluate and compare the value of employee fringe benefits.
 - (9) Recommendations, timetable, and design of a comprehensive performance-based compensation plan across all government sectors for implementation by the General Assembly. Recommendations must include the design of an effective employee performance evaluation system, including the identification of effective employee performance measures and information systems (including estimated costs) to track and monitor employee performance.
 - (10) Training recommendations for supervisors and managers regarding employee productivity and performance evaluation.
 - (11) Recommendations to assure equity of compensation among public employees across government sectors.
 - (12) Feasibility of a consensus forecasting group to make annual recommendations for compensation policy across all government sectors. These recommendations should include how to establish and maintain priorities for General Fund appropriations necessary to fund the performance-based compensation system while remaining affordable for the State and its taxpayers.

"SECTION 29.20.(b) In the event that the Legislative Services Commission contracts with a qualified consulting firm to perform the review and study, the consultant shall report its progress to the Fiscal Research and Program Evaluation Divisions every 90 days.

"SECTION 29.20.(c) By ~~May 1, 2012, March 1, 2013~~, the Fiscal Research and Program Evaluation Divisions, or at their direction by the consultant hired to perform the review and study, shall report all findings and any other final results of the study, including recommendations and legislative proposals, to the ~~2012 Regular Session of the 2011~~2013 General Assembly.

"SECTION 29.20.(d) All State agencies, departments, ~~institutions, and institutions,~~ and The University of North Carolina System, ~~the North Carolina Community College System, and local education agencies~~ System shall provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them to the Fiscal Research and Program Evaluation Divisions and/or the consultant necessary to complete this review and study.

"SECTION 29.20.(e) The State Personnel Director, the State Budget Director, the State Controller, and the State Treasurer shall dedicate and identify staff for technical assistance, as needed, to aid in the reviews required by this section."

EXEMPT POSITIONS

SECTION 25.2E.(a) G.S. 126-5(d) reads as rewritten:

- "(d) (1) Exempt Positions in Cabinet Department. – ~~The Subject to the provisions of this Chapter, which is known as the State Personnel Act, the Governor may designate a total of 1001,000 exempt policymaking positions throughout the following departments:~~
- a. Department of Administration;
 - b. Department of Commerce;
 - e. ~~Division of Adult Correction of the Department of Public Safety;~~
 - d. Department of Public Safety;
 - e. Department of Cultural Resources;
 - f. Department of Health and Human Services;
 - g. Department of Environment and Natural Resources;
 - h. Department of Revenue;
 - i. Department of ~~Transportation;~~ and Transportation.
 - j. ~~Division of Juvenile Justice of the Department of Public Safety.~~
- ~~The Governor may designate exempt managerial positions in a number up to one percent (1%) of the total number of full-time positions in each cabinet department listed above in this sub-subdivision, not to exceed 30 positions in each department. Notwithstanding the provisions of this subdivision, or the other requirements of this subsection, the Governor may at any time increase by five the number of exempt policymaking positions at the Department of Health and Human Services, but at no time shall the total number of exempt policymaking positions exceed 105. The Governor shall notify the General Assembly and the State Personnel Director of the additional positions designated hereunder.~~
- (2) Exempt Positions in Council of State Departments and Offices. – The Secretary of State, the Auditor, the Treasurer, the Attorney General, the Commissioner of Agriculture, the Commissioner of Insurance, and the Labor Commissioner may designate exempt positions. The State Board of Education may designate exempt positions in the Department of Public Instruction. The number of exempt policymaking positions in each department headed by an elected department head listed above in this sub-subdivision shall be limited to 20 exempt policymaking positions or one percent (1%) of the total number of full-time positions in the department,

- whichever is greater. The number of exempt managerial positions shall be limited to 20 positions or one percent (1%) of the total number of full-time positions in the department, whichever is greater.
- (2a) Designation of Additional Positions. – The Governor, elected department head, or State Board of Education may request that additional positions be designated as exempt. The request shall be made by sending a list of exempt positions that exceed the limit imposed by this subsection to the Speaker of the North Carolina House of Representatives and the President of the North Carolina Senate. A copy of the list also shall be sent to the State Personnel Director. The General Assembly may authorize all, or part of, the additional positions to be designated as exempt positions. If the General Assembly is in session when the list is submitted and does not act within 30 days after the list is submitted, the list shall be deemed approved by the General Assembly, and the positions shall be designated as exempt positions. If the General Assembly is not in session when the list is submitted, the 30-day period shall not begin to run until the next date that the General Assembly convenes or reconvenes, other than for a special session called for a specific purpose not involving the approval of the list of additional positions to be designated as exempt positions; the policymaking positions shall not be designated as exempt during the interim.
- (3) Letter. – These positions shall be designated in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate by ~~May 1~~ July 1 of the year in which the oath of office is administered to each Governor unless the provisions of subsection (d)(4) apply.
- (4) Vacancies. – In the event of a vacancy in the Office of Governor or in the office of a member of the Council of State, the person who succeeds to or is appointed or elected to fill the unexpired term shall make such designations in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate within ~~120~~ 180 days after the oath of office is administered to that person. In the event of a vacancy in the Office of Governor, the State Board of Education shall make these designations in a letter to the State Personnel Director, the Speaker of the House of Representatives, and the President of the Senate within ~~120~~ 180 days after the oath of office is administered to the Governor.
- (5) Creation, Transfer, or Reorganization. – The Governor, elected department head, or State Board of Education may designate as exempt a position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after ~~May 1~~ July 1 of the year in which the oath of office is administered to the Governor. The designation must be made in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within ~~120~~ 180 days after such position is created, transferred, or in which reorganization has occurred.
- (6) Reversal. – Subsequent to the designation of a position as an exempt position as hereinabove provided, the status of the position may be reversed and made subject to the provisions of this Chapter by the Governor, by an elected department head, or by the State Board of Education in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate.

- (7) Hearing Officers. – Except as otherwise specifically provided by this section, no employee, by whatever title, whose primary duties include the power to conduct hearings, take evidence, and enter a decision based on findings of fact and conclusions of law based on statutes and legal precedents shall be designated as exempt. This subdivision shall apply beginning July 1, 1985, and no list submitted after that date shall designate as exempt any employee described in this subdivision."

SECTION 25.2E.(b) This section becomes effective January 1, 2013.

UNIVERSITY FACULTY RECRUITING AND RETENTION FUND

SECTION 25.3. The Faculty Recruiting and Retention Fund under the Office of the President of The University of North Carolina is reestablished for the 2012-2013 fiscal year. Allocations from the fund shall be made for salary increases at the discretion of the President of The University of North Carolina only for the purpose of recruiting and retaining faculty members as necessary at constituent institutions.

TEACHER SALARY SCHEDULES

SECTION 25.6.(a) Section 3(a) of S.L. 2012-13 is repealed.

SECTION 25.6.(b) The following monthly salary schedules shall apply for the 2012-2013 fiscal year to certified personnel of the public schools who are classified as teachers. The schedules contain 36 steps, with each step corresponding to one year of teaching experience. Public school employees paid according to this salary schedule and receiving NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the appropriate increase in salary. Provided, however, teachers employed during the 2011-2012 school year who did not work the required number of months to acquire an additional year of experience shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2012-2013 Monthly Salary Schedule

Years of Experience	"A" Teachers	NBPTS Certification
0-2	\$3,080	N/A
3-4	\$3,080	\$3,450
5	\$3,122	\$3,497
6	\$3,167	\$3,547
7	\$3,303	\$3,699
8	\$3,445	\$3,858
9	\$3,580	\$4,010
10	\$3,711	\$4,156
11	\$3,816	\$4,274
12	\$3,865	\$4,329
13	\$3,914	\$4,384
14	\$3,965	\$4,441
15	\$4,015	\$4,497
16	\$4,066	\$4,554
17	\$4,118	\$4,612
18	\$4,171	\$4,672
19	\$4,226	\$4,733
20	\$4,282	\$4,796
21	\$4,337	\$4,857
22	\$4,397	\$4,925
23	\$4,456	\$4,991
24	\$4,515	\$5,057
25	\$4,577	\$5,126

26	\$4,639	\$5,196
27	\$4,706	\$5,271
28	\$4,771	\$5,344
29	\$4,836	\$5,416
30	\$4,903	\$5,491
31	\$4,972	\$5,569
32	\$5,044	\$5,649
33	\$5,116	\$5,730
34	\$5,215	\$5,841
35+	\$5,318	\$5,956

2012-2013 Monthly Salary Schedule

Years of Experience	"M" Teachers	NBPTS Certification
0-2	\$3,388	N/A
3-4	\$3,388	\$3,795
5	\$3,434	\$3,846
6	\$3,484	\$3,902
7	\$3,633	\$4,069
8	\$3,790	\$4,245
9	\$3,938	\$4,411
10	\$4,082	\$4,572
11	\$4,198	\$4,702
12	\$4,252	\$4,762
13	\$4,305	\$4,822
14	\$4,362	\$4,885
15	\$4,417	\$4,947
16	\$4,473	\$5,010
17	\$4,530	\$5,074
18	\$4,588	\$5,139
19	\$4,649	\$5,207
20	\$4,710	\$5,275
21	\$4,771	\$5,344
22	\$4,837	\$5,417
23	\$4,902	\$5,490
24	\$4,967	\$5,563
25	\$5,035	\$5,639
26	\$5,103	\$5,715
27	\$5,177	\$5,798
28	\$5,248	\$5,878
29	\$5,320	\$5,958
30	\$5,393	\$6,040
31	\$5,469	\$6,125
32	\$5,548	\$6,214
33	\$5,628	\$6,303
34	\$5,737	\$6,425
35+	\$5,850	\$6,552

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 25.7.(a) Section 4(a) of S.L. 2012-13 is repealed.

SECTION 25.7.(b) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2012-2013 fiscal year, commencing July 1, 2012. Provided, however, school-based administrators (i) employed during the 2011-2012 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2012-2013 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2012-2013 Principal and Assistant Principal Salary Schedules
Classification

Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-8	\$3,828	-	-	-	-
9	\$3,977	-	-	-	-
10	\$4,123	-	-	-	-
11	\$4,240	-	-	-	-
12	\$4,295	\$4,295	-	-	-
13	\$4,348	\$4,348	-	-	-
14	\$4,406	\$4,406	\$4,461	-	-
15	\$4,461	\$4,461	\$4,518	-	-
16	\$4,518	\$4,518	\$4,575	\$4,634	-
17	\$4,575	\$4,575	\$4,634	\$4,695	\$4,757
18	\$4,634	\$4,634	\$4,695	\$4,757	\$4,819
19	\$4,695	\$4,695	\$4,757	\$4,819	\$4,885
20	\$4,757	\$4,757	\$4,819	\$4,885	\$4,951
21	\$4,819	\$4,819	\$4,885	\$4,951	\$5,017
22	\$4,885	\$4,885	\$4,951	\$5,017	\$5,085
23	\$4,951	\$4,951	\$5,017	\$5,085	\$5,154
24	\$5,017	\$5,017	\$5,085	\$5,154	\$5,229
25	\$5,085	\$5,085	\$5,154	\$5,229	\$5,300
26	\$5,154	\$5,154	\$5,229	\$5,300	\$5,373
27	\$5,229	\$5,229	\$5,300	\$5,373	\$5,447
28	\$5,300	\$5,300	\$5,373	\$5,447	\$5,524
29	\$5,373	\$5,373	\$5,447	\$5,524	\$5,603
30	\$5,447	\$5,447	\$5,524	\$5,603	\$5,684
31	\$5,524	\$5,524	\$5,603	\$5,684	\$5,794
32	\$5,603	\$5,603	\$5,684	\$5,794	\$5,909
33	\$5,684	\$5,684	\$5,794	\$5,909	\$6,027
34	\$5,794	\$5,794	\$5,909	\$6,027	\$6,148
35	\$5,909	\$5,909	\$6,027	\$6,148	\$6,271
36	-	\$6,027	\$6,148	\$6,271	\$6,396
37	-	-	\$6,271	\$6,396	\$6,524
38	-	-	\$6,396	\$6,524	\$6,654
39	-	-	-	\$6,654	\$6,787
40	-	-	-	\$6,787	\$6,923
41	-	-	-	-	\$7,061

2012-2013 Principal and Assistant Principal Salary Schedules

Years of Exp	Classification			
	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
0-18	\$4,885	-	-	-
19	\$4,951	-	-	-
20	\$5,017	\$5,085	-	-
21	\$5,085	\$5,154	\$5,300	-
22	\$5,154	\$5,229	\$5,373	\$5,447
23	\$5,229	\$5,300	\$5,447	\$5,524
24	\$5,300	\$5,373	\$5,524	\$5,603
25	\$5,373	\$5,447	\$5,603	\$5,684
26	\$5,447	\$5,524	\$5,684	\$5,794
27	\$5,524	\$5,603	\$5,794	\$5,909
28	\$5,603	\$5,684	\$5,909	\$6,027
29	\$5,684	\$5,794	\$6,027	\$6,148
30	\$5,794	\$5,909	\$6,148	\$6,271
31	\$5,909	\$6,027	\$6,271	\$6,396
32	\$6,027	\$6,148	\$6,396	\$6,524
33	\$6,148	\$6,271	\$6,524	\$6,654
34	\$6,271	\$6,396	\$6,654	\$6,787
35	\$6,396	\$6,524	\$6,787	\$6,923
36	\$6,524	\$6,654	\$6,923	\$7,061
37	\$6,654	\$6,787	\$7,061	\$7,202
38	\$6,787	\$6,923	\$7,202	\$7,346
39	\$6,923	\$7,061	\$7,346	\$7,493
40	\$7,061	\$7,202	\$7,493	\$7,643
41	\$7,202	\$7,346	\$7,643	\$7,796
42	\$7,346	\$7,493	\$7,796	\$7,952
43	-	\$7,643	\$7,952	\$8,111
44	-	\$7,796	\$8,111	\$8,273
45+	-	-	\$8,273	\$8,438

CENTRAL OFFICE SALARIES

SECTION 25.7C.(a) Section 29.14 of S.L. 2011-145 is repealed.

SECTION 25.7C.(b) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2012-2013 fiscal year, beginning July 1, 2012.

School Administrator I	\$3,349	\$6,281
School Administrator II	\$3,550	\$6,662
School Administrator III	\$3,769	\$7,068
School Administrator IV	\$3,920	\$7,349
School Administrator V	\$4,078	\$7,647
School Administrator VI	\$4,326	\$8,109
School Administrator VII	\$4,500	\$8,436

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 25.7C.(c) The monthly salary ranges that follow apply to public school superintendents for the 2012-2013 fiscal year, beginning July 1, 2012.

Superintendent I	\$4,777	\$8,949
Superintendent II	\$5,071	\$9,490
Superintendent III	\$5,380	\$10,067
Superintendent IV	\$5,710	\$10,679
Superintendent V	\$6,060	\$11,330

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 25.7C.(d) 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 25.7C.(e) 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 25.7C.(f) 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 25.7C.(g) The salaries of all permanent full-time personnel paid from the Central Office Allotment shall be increased by one and two-tenths percent (1.2%), commencing July 1, 2012. 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 25.7D.(a) Section 29.15 of S.L. 2011-145 is repealed.

SECTION 25.7D.(b) The annual salary increase for permanent, full-time noncertified public school employees whose salaries are supported from the State's General Fund shall be one and two-tenths percent (1.2%), commencing July 1, 2012.

SECTION 25.7D.(c) Local boards of education shall increase the rates of pay for such employees who were employed for all or part of fiscal year 2011-2012 and who continue their employment for fiscal year 2012-2013 by providing an annual salary increase for employees of one and two-tenths percent (1.2%).

For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

SECTION 25.7D.(d) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of one and two-tenths percent (1.2%) for the 2012-2013 fiscal year.

STATE AGENCY TEACHERS' COMPENSATION

SECTION 25.7E. Funds in the Reserve for Compensation Increases and Personnel Flexibility shall be used to increase annual salaries, by one and two-tenths percent (1.2%), for employees of schools operated by the Department of Public Instruction, the Department of Health and Human Services, and the Department of Public Safety, who are paid on the Teacher Salary Schedule or the School-Based Administrator Salary Schedule.

SALARY-RELATED CONTRIBUTIONS

SECTION 25.10. Section 29.22(d) of S.L. 2011-145 reads as rewritten:

"**SECTION 29.22.(d)** Effective July 1, 2012, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2012-2013 fiscal year are: (i) ~~fourteen and thirty-one hundredths percent (14.31%)~~fourteen and twenty-three hundredths percent (14.23%) – Teachers and State Employees; (ii) ~~nineteen and thirty-one hundredths percent (19.31%)~~nineteen and twenty-three hundredths percent (19.23%) – State Law Enforcement Officers; (iii) ~~twelve and sixty-six hundredths percent (12.66%)~~twelve and fifty-eight hundredths percent (12.58%) – University Employees' Optional Retirement System; (iv) ~~twelve and sixty-six hundredths percent (12.66%)~~twelve and fifty-eight hundredths percent (12.58%) – Community College Optional Retirement Program; (v) ~~thirty-one and seventy hundredths percent (31.70%)~~thirty-one and eighty-five hundredths percent (31.85%) – Consolidated Judicial Retirement System; and (vi) five and thirty hundredths percent (5.30%) – Legislative Retirement System. Each of the foregoing contribution rates includes five and thirty hundredths percent (5.30%) 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%)~~forty-four hundredths percent (0.44%) 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."

OPTIONAL RETIREMENT SYSTEM/FORFEITURE FUNDS

SECTION 25.11. G.S. 135-5.1(b)(5) reads as rewritten:

"(5) If any participant in the Optional Retirement Program having less than five years of total membership service under any combination of the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Optional Retirement Program leaves the employ of The University of North Carolina and either retires or commences employment with an employer not having a retirement program with the same company underwriting the participant's annuity contract, regardless of whether the annuity contract is held by the participant, a trust, or the Retirement System, the participant's interest in the Optional Retirement Program attributable to contributions of The University of North Carolina shall be ~~forfeited and shall either (i) be refunded to The University of North Carolina and forthwith paid by it to the Retirement System and credited to the pension accumulation fund or (ii) be paid directly to the Retirement System and credited to the pension accumulation fund.~~ forfeited. Consistent with Section 401(a) of the Internal Revenue Code, no part of the corpus or income of the Optional Retirement Program, or any trust established under that Program, may be (within the taxable year or thereafter) used for purposes other than for the exclusive benefit of participants and their beneficiaries, except that contributions made under a good faith mistake of fact may be returned, consistent with the rules adopted by the University."

EXPAND OPTIONAL RETIREMENT PROGRAM FOR UNIVERSITY OF NORTH CAROLINA SYSTEM

SECTION 25.12. G.S. 135-5.1(a) reads as rewritten:

"(a) An Optional Retirement Program provided for in this section is authorized and established and shall be implemented by the Board of Governors of The University of North Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity

contracts, which may be both fixed and variable contracts or a combination thereof, or financed through the establishment of a trust, for the benefit of participants in the Program. Participation in the Optional Retirement Program shall be limited to University personnel who are eligible for membership in the Teachers' and State Employees' Retirement Program and who are:

- (1) Administrators and faculty of The University of North Carolina with the rank of instructor or above;
- (2) The President and employees of The University of North Carolina who are appointed by the Board of Governors on recommendation of the President pursuant to G.S. 116-11(4), 116-11(5), and 116-14 or who are appointed by the Board of Trustees of a constituent institution of The University of North Carolina upon the recommendation of the Chancellor pursuant to G.S. 116-40.22(b);
- (3) Nonfaculty instructional and research staff who are exempt from the State Personnel Act, as defined by the provisions of G.S. 126-5(c1)(8), and the faculty of the North Carolina School of Science and Mathematics; and
- (4) Field faculty of the Cooperative Agriculture Extension Service, and tenure track faculty in North Carolina State University agriculture research programs who are exempt from the State Personnel Act and who are eligible for membership in the Teachers' and State Employees' Retirement System pursuant to G.S. 135-3(1), who in any of the cases described in this subsection (i) had been members of the Optional Retirement Program under the provisions of Chapter 338, Session Laws of 1971, immediately prior to July 1, 1985, or (ii) have sought membership as required in subsection (b), below. Under the Optional Retirement Program, the State and the participant shall contribute, to the extent authorized or required, toward the purchase of such contracts or deposited in such trust on the participant's behalf.
- (5) Employees of The University of North Carolina Health Care System, subject to rules for eligibility and participation as may be adopted by the Board of Governors in the Optional Retirement Program plan document.
- (6) Employees hired on or after January 1, 2013."

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 25.13.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(sss) From and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2011, shall be increased by one percent (1%) of the allowance payable on June 1, 2012, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2011, but before June 30, 2012, shall be increased by a prorated amount of one percent (1%) 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, 2011, and June 30, 2012."

SECTION 25.13.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(dd) From and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2011, shall be increased by one percent (1%) of the allowance payable on June 1, 2012. Furthermore, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2011, but before June 30, 2012, shall be increased by a prorated amount of one percent (1%) 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, 2011, and June 30, 2012."

SECTION 25.13.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(x) In accordance with subsection (a) of this section, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2012, shall be increased by one percent (1%) of the allowance payable on June 1, 2012. Furthermore, from and after July 1, 2012, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2012, but before June 30, 2012, shall be increased by a prorated amount of one percent (1%) 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, 2012, and June 30, 2012."

PART XXVI. CAPITAL APPROPRIATIONS

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 26.1. There is appropriated from the General Fund for the 2012-2013 fiscal year the following amounts for capital improvements:

Capital Improvements – General Fund	2012-2013
Department of Environment and Natural Resources	
Water Resources Development Projects	\$ 5,000,000
TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND	\$ 5,000,000

WATER RESOURCES DEVELOPMENT PROJECTS

SECTION 26.2.(a) The Department of Environment and Natural Resources shall allocate funds for water resources projects in accordance with the schedule that follows. The amounts set forth in the schedule include funds appropriated in this act for water resources projects and funds carried forward from previous fiscal years in accordance with subsection (b) of this section. These funds will provide a State match for an estimated eighty-six million three hundred ninety thousand dollars (\$86,390,000) in federal funds.

Name of Project	2012-2013
(1) B. Everett Jordan Lake Water Supply Storage	\$200,000
(2) Wilmington Harbor Maintenance	1,200,000
(3) Morehead City Harbor Maintenance	–
(4) Wilmington Harbor Deepening	6,000,000
(5) 2012 Corps Long Term MOA for Dredging	3,350,000
(6) Carolina Beach Renourishment Project	1,184,000
(7) Wilmington Harbor Improvements Feasibility	500,000
(8) John H. Kerr Dam and Reservoir Sec. 216	200,000
(9) Aquatic Plant Control, Statewide and Lake Gaston	200,000
(10) State-Local Projects	593,000
(11) Catawba Water Management Group Study	100,000
TOTALS	\$ 13,527,000

SECTION 26.2.(b) It is the intent of the General Assembly that funds carried forward from previous fiscal years be used to supplement the five million dollars (\$5,000,000) appropriated for water resources development projects in Section 26.1 of this act. Therefore, the following funds carried forward from previous fiscal years shall be used for the following projects:

Name of Project	Amount Carried Forward
(1) B. Everett Jordan Lake Water Supply Storage	\$ 200,000
(2) Wilmington Harbor Maintenance	1,200,000
(3) 2012 Corps MOA for Shallow Draft Inlet Dredging	3,350,000
(4) Wilmington Harbor Deepening	3,000,000
(5) Wilmington Harbor Improvements Feasibility	250,000
(6) State-Local Projects	527,000
TOTALS	\$ 8,527,000

SECTION 26.2.(c) 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 2012-2013 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 the 2012-2013 fiscal year.
- (3) State-local water resources development projects.

Funds subject to this subsection that are not expended or encumbered for the purposes set forth in subdivisions (1) through (3) of this subsection shall revert to the General Fund at the end of the 2013-2014 fiscal year.

SECTION 26.2.(d) The Department shall make semiannual reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the General Assembly, 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 also shall show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

SECTION 26.2.(e) Notwithstanding any provision of law to the contrary, funds appropriated for a water resources development project shall be used to provide no more than fifty percent (50%) of the nonfederal portion of funds for the project. This subsection applies to funds appropriated in this act and to funds appropriated prior to the 2011-2013 fiscal biennium that are unencumbered and proposed for reallocation to provide the nonfederal portion of funds for water resources development projects. The limitation on fund usage contained in this subsection applies only to projects in which a local government or local governments participate.

SECTION 26.2.(f) The 2012 Long Term Dredging Memorandum of Agreement with the U.S. Army Corps of Engineers authorized by this section shall provide for all of the following:

- (1) Prioritization of projects through joint consultation with the State, applicable units of local government, and the U.S. Army Corps of Engineers.
- (2) Adherence to the requirements of subsection (e) of this section.
- (3) Annual reporting by the Department on the use of funds provided to the U.S. Army Corps of Engineers under the 2012 Long Term Dredging

Memorandum of Agreement. These reports shall be made to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the General Assembly, and the Office of State Budget and Management and shall include all of the following:

- a. A list of all projects commenced.
- b. The estimated cost of each project.
- c. The date that work on each project commenced or is expected to commence.
- d. The date that work on each project was completed or is expected to be completed.
- e. The actual cost of each project.

PROHIBIT EXPENDITURES OF STATE FUNDS FOR THE NORTH CAROLINA INTERNATIONAL TERMINAL

SECTION 26.3.(a) Notwithstanding G.S. 136-253 and any other provision of law, State funds, as that term is defined in G.S. 143C-1-1, shall not be used to fund the North Carolina International Terminal of the North Carolina State Ports Authority.

SECTION 26.3.(b) This section shall expire on June 30, 2013.

REPAIRS AND RENOVATIONS RESERVE ALLOCATION

SECTION 26.4.(a) Of the funds in the Reserve for Repairs and Renovations for the 2012-2013 fiscal year, the following allocations shall be made to the following agencies for repairs and renovations pursuant to G.S. 143C-4-3:

- (1) Fifty percent (50%) shall be allocated to the Board of Governors of The University of North Carolina.
- (2) Fifty percent (50%) shall be allocated to the Office of State Budget and Management.

The Office of State Budget and Management shall consult with or report to the Joint Legislative Commission on Governmental Operations, as appropriate, in accordance with G.S. 143C-4-3(e). The Board of Governors shall report to the Joint Legislative Commission on Governmental Operations in accordance with G.S. 143C-4-3(d).

SECTION 26.4.(b) Notwithstanding G.S. 143C-4-3(d), 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 also shall 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 26.4.(c) Notwithstanding G.S. 143C-4-3(d), 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 campus public safety improvements allowable under G.S. 143C-4-3(b).

REPORTING ON CAPITAL PROJECTS

SECTION 26.5.(a) Definitions. – The following definitions apply in this section:

- (1) Capital project. – Any capital improvement, as that term is defined in G.S. 143C-1-1, that is not complete by the effective date of this section and that is funded in whole or in part with either State funds or statutorily or constitutionally authorized indebtedness of any kind. This term includes only projects with a total cost of one hundred thousand dollars (\$100,000) or more.
- (2) Construction phase. – The status of a particular capital project as described using the terms customarily employed in the design and construction industries.
- (3) New capital project. – A capital project that is authorized in this act or subsequent to the effective date of this act.

SECTION 26.5.(b) Reporting. – The following reports are required:

- (1) By October 1, 2012, and every six months thereafter, each State agency shall report on the status of agency capital projects to the Joint Legislative Commission on Governmental Operations and to the Joint Legislative Oversight Committee on Capital Improvements.
- (2) By October 1, 2012, and quarterly thereafter, each State agency shall report on the status of agency capital projects to the Fiscal Research Division of the General Assembly and to the Office of State Budget and Management.

SECTION 26.5.(c) The reports required by this section shall include at least the following information about every agency capital project:

- (1) The current construction phase of the project.
- (2) The anticipated timeline from the current construction phase to project completion.
- (3) Information about expenditures that have been made in connection with the project, regardless of source of the funds expended.
- (4) Information about the adequacy of funding to complete the project, including estimates of how final expenditures will relate to initial estimates of expenditures, and whether or not scope reductions will be necessary in order to complete the project within its budget.
- (5) For new capital projects only, an estimate of the operating costs for the project for the first five fiscal years of its operation.

UNCW SOCIAL AND BEHAVIORAL SCIENCES BUILDING

SECTION 26.6. Section 29.13(a) of S.L. 2007-323, as amended by Section 27.8(d) of S.L. 2008-107 and Section 2(b) of S.L. 2009-209, reads as rewritten:

"SECTION 29.13.(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:

- ...
- (9) In the maximum aggregate principal amount of thirty-two million eight hundred ninety-nine thousand six hundred ninety-nine dollars (\$32,899,699) to finance the capital facility costs of completing a new teaching laboratory at the University of North Carolina at Wilmington and of renovating the Social and Behavioral Science Building at the University of North Carolina at Wilmington. No more than a maximum aggregate amount of two million five hundred thousand dollars (\$2,500,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2008. No more than a maximum aggregate amount of eight million six hundred thirty-one thousand two hundred fifty dollars (\$8,631,250) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.
-"

TRANSFER FOR PLANT CONSERVATION PROGRAM

SECTION 26.9. 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 2012-2013 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, and environmental studies, and for the management of the plant conservation program preserves owned by the Department.

AUTHORIZE UNC CARRYFORWARD FUNDS TO BE USED FOR CAPITAL PROJECTS

SECTION 26.10. Notwithstanding any other provision of law, for purposes of G.S. 143C-8-12, the term "non-General Fund money" includes funds carried forward from one fiscal year to another pursuant to G.S. 116-30.3. This section shall expire on June 30, 2013.

OSBM ALLOCATION OF REPAIRS AND RENOVATIONS FUNDS

SECTION 26.11. G.S. 143C-4-3 is amended by adding a new subsection to read:

"(e) Office of State Budget and Management May Allocate Funds to Particular Projects.
– Any funds in the Reserve for Repairs and Renovations that are allocated to the Office of State Budget and Management may be allocated or reallocated by the State Budget Office for repairs and renovations projects so long as any project that receives an allocation or reallocation satisfies the requirements of subsection (b) of this section. The Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation of these funds. The State Budget Office shall report to the Joint Legislative Commission on Governmental Operations on the reallocation of funds pursuant to this section within 60 days of any reallocation under this subsection."

PART XXVII. MISCELLANEOUS PROVISIONS

STATE BUDGET ACT APPLIES

SECTION 27.1. 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 27.2.(a) The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets for House Bill 950, dated June 20, 2012, which was distributed in the House of Representatives and the Senate and used to explain this act, shall indicate action by the General Assembly on this act and shall, therefore, be used to construe this act, as provided in the State Budget Act, Chapter 143C of the General Statutes, as appropriate, 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 27.2.(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 2012-2013 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 budget to the General Assembly in May 2012 in the document "Investing in Our Future/Recommended Adjustments 2012-2013 North Carolina State Budget" for the 2012-2013 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 27.2.(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.

REPORT BY FISCAL RESEARCH DIVISION ON CHANGES TO 2012-2013 BUDGET/PUBLICATION

SECTION 27.3.(a) The Fiscal Research Division of the Legislative Services Commission shall issue a report on budget actions taken by the 2011 Regular Session of the General Assembly in 2012. The report shall be in the form of a revision of the Committee Report adopted for House Bill 950 pursuant to G.S. 143C-5-5, and shall include all modifications made to the 2012-2013 budget prior to sine die adjournment of the 2011 Regular Session.

SECTION 27.3.(b) The report issued pursuant to this section, and the Committee Report issued pursuant to G.S. 143C-5-5, shall be construed together with this act in determining the intent of the General Assembly.

SECTION 27.3.(c) The Director of the Fiscal Research Division of the Legislative Services Commission shall send a copy of the report issued pursuant to this section to the Director of the Budget. The report shall be published on the General Assembly's Internet Web site for public access.

MOST TEXT APPLIES ONLY TO THE 2012-2013 FISCAL YEAR

SECTION 27.4. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2012-2013 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2012-2013 fiscal year.

EFFECT OF HEADINGS

SECTION 27.5. 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 27.6.(a) Except where expressly repealed or amended by this act, the provisions of S.L. 2011-145, S.L. 2011-315, S.L. 2011-373, S.L. 2011-391, S.L. 2011-419, S.L. 2012-2, and S.L. 2012-13 remain in effect.

SECTION 27.6.(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 2012-2013 fiscal year in S.L. 2011-145, S.L. 2011-315, S.L. 2011-373, S.L. 2011-391, S.L. 2011-419, S.L. 2012-2, and S.L. 2012-13 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

SECTION 27.7. 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 27.8. Except as otherwise provided, this act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law notwithstanding the objections of the Governor at 10:41 p.m. this 2nd day of July, 2012.

Session Law 2012-143**S.B. 820**

AN ACT TO (1) RECONSTITUTE THE MINING COMMISSION AS THE MINING AND ENERGY COMMISSION, (2) REQUIRE THE MINING AND ENERGY COMMISSION AND OTHER REGULATORY AGENCIES TO DEVELOP A MODERN REGULATORY PROGRAM FOR THE MANAGEMENT OF OIL AND GAS EXPLORATION AND DEVELOPMENT ACTIVITIES IN THE STATE, INCLUDING THE USE OF HORIZONTAL DRILLING AND HYDRAULIC FRACTURING FOR THAT PURPOSE, (3) AUTHORIZE HORIZONTAL DRILLING AND HYDRAULIC FRACTURING, BUT PROHIBIT THE ISSUANCE OF PERMITS FOR THESE ACTIVITIES PENDING SUBSEQUENT LEGISLATIVE ACTION, (4) ENHANCE LANDOWNER AND PUBLIC PROTECTIONS RELATED TO HORIZONTAL DRILLING AND HYDRAULIC FRACTURING, AND (5) ESTABLISH THE JOINT LEGISLATIVE COMMISSION ON ENERGY POLICY.

PART I. LEGISLATIVE FINDINGS AND INTENT

Whereas, in S.L. 2011-276, the General Assembly directed the Department of Environment and Natural Resources, in conjunction with the Department of Commerce, the Department of Justice, and the Rural Advancement Foundation (RAFI-USA), to study the issue of oil and gas exploration in the State and the use of horizontal drilling and hydraulic fracturing for that purpose, including the study of all of the following:

- (1) Oil and gas resources present in the Triassic Basins and in any other areas of the State.
- (2) Methods of exploration and extraction of oil and gas, including directional and horizontal drilling and hydraulic fracturing.
- (3) Potential environmental, economic, and social impacts arising from such activities, as well as impacts on infrastructure.

- (4) Appropriate regulatory requirements for management of oil and gas exploration activities, with particular attention to regulation of horizontal drilling and hydraulic fracturing for that purpose; and

Whereas, pursuant to S.L. 2011-276, the Department of Environment and Natural Resources, in conjunction with the Department of Commerce, the Department of Justice, and the Rural Advancement Foundation (RAFI-USA), issued a draft report in March of 2012; and

Whereas, pursuant to S.L. 2011-276, the Department of Environment and Natural Resources received public comment regarding the draft report, including public comment received at public meetings held on March 20, March 27, and April 2, 2012; and

Whereas, pursuant to S.L. 2011-276, the Department of Environment and Natural Resources (DENR), in conjunction with the Department of Commerce, the Department of Justice, and the Rural Advancement Foundation (RAFI-USA), issued a final report on April 30, 2012; and

Whereas, the final report set forth a number of recommendations, including recommendations concerning all of the following:

- (1) Development of a modern oil and gas regulatory program, taking into consideration the processes involved in hydraulic fracturing and horizontal drilling technologies, and long-term prevention of physical or economic waste in developing oil and gas resources.
- (2) Collection of baseline data for areas near proposed drill sites concerning air quality and emissions, as well as groundwater and surface water resources and quality.
- (3) Requirements that oil and gas operators prepare and have approved water management plans that limit water withdrawals during times of low-flow conditions and droughts.
- (4) Enhancements to existing oil and gas well construction standards to address the additional pressures of horizontal drilling and hydraulic fracturing.
- (5) Development of setback requirements and identification of areas where oil and gas exploration and development activities should be prohibited.
- (6) Development of a State stormwater regulatory program for oil and gas drilling sites.
- (7) Development of specific standards for management of oil and gas wastes.
- (8) Requirements for disclosure of hydraulic fracturing chemicals and constituents to regulatory agencies and the public.
- (9) Prohibitions on use of certain chemicals or constituents in hydraulic fracturing fluids.
- (10) Improvements to data management capabilities.
- (11) Development of a coordinated permitting program for oil and gas exploration and development activities within the Department of Environment and Natural Resources where it will benefit from the expertise of State geological staff and the ability to coordinate air, land, and water permitting.
- (12) Development of protocols to ensure that State agencies, local first responders, and industry are prepared to respond to a well blowout, chemical spill, or other emergency.
- (13) Adequate funding for any continued work on the development of a State regulatory program for the natural gas industry.
- (14) Appropriate distribution of revenues from any taxes or fees that may be imposed on oil and gas exploration and development activities to support a modern regulatory program for the management of all aspects of oil and gas exploration and development activities using the processes of horizontal drilling and hydraulic fracturing in the State, and to support local governments impacted by the activities, including, but not limited to,

- sufficient funding for improvements to and repair of roads subject to damage by truck traffic and heavy equipment from these activities.
- (15) Closure of gaps in regulatory authority over the siting, construction, and operation of gathering pipelines.
 - (16) Clarifications needed to address local government regulatory authority over oil and gas exploration and development activities, and use of horizontal drilling and hydraulic fracturing for that purpose.
 - (17) Additional research required on impacts to local governments and local infrastructure, as well as potential economic impacts from oil and gas exploration and development activities.
 - (18) Development of provisions to address liability of the oil and gas industry for environmental contamination caused by exploration and development activities, particularly with regard to groundwater contamination.
 - (19) Establishment of a process that affords additional public participation in connection with development of a modern oil and gas regulatory program; and

Whereas, the final report also states "[a]fter reviewing other studies and experiences in oil and gas-producing states, DENR has concluded that information available to date suggests that production of natural gas by means of hydraulic fracturing can be done safely as long as the right protections are in place"; and

Whereas, the General Assembly concurs in the conclusion of the final report that hydraulic fracturing can be done safely as long as the right protective measures are in place before any permits for horizontal drilling and hydraulic fracturing are issued; and

Whereas, it is the intent of the General Assembly to authorize oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments, but to prohibit the issuance of permits for these activities until such time as the General Assembly has determined that a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing for that purpose has been fully established and takes legislative action to allow the issuance of permits; and

Whereas, it is the intent of the General Assembly to establish a modern regulatory program based on the recommendations of the final report and the following principles:

- (1) Protection of public health and safety.
 - (2) Protection of public and private property.
 - (3) Protection and conservation of the State's air, water, and other natural resources.
 - (4) Promotion of economic development and expanded employment opportunities.
 - (5) Productive and efficient development of the State's oil and gas resources;
- Now, therefore,

The General Assembly of North Carolina enacts:

PART II. RECONSTITUTE THE MINING COMMISSION AS THE MINING AND ENERGY COMMISSION; RENAME THE DIVISION OF LAND RESOURCES AS THE DIVISION OF ENERGY, MINERAL, AND LAND RESOURCES

SECTION 1.(a) Part 6 of Article 7 of Chapter 143B of the General Statutes is repealed.

SECTION 1.(b) Article 7 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 6A. North Carolina Mining and Energy Commission.

"§ 143B-293.1. North Carolina Mining and Energy Commission – creation; powers and duties.

(a) There is hereby created the North Carolina Mining and Energy Commission of the Department of Environment and Natural Resources with the power and duty to adopt rules necessary to administer the Oil and Gas Conservation Act pursuant to G.S. 113-391 and for the development of the oil, gas, and mining resources of the State. The Commission shall make such rules consistent with the provisions of this Chapter. All rules adopted by the Commission shall be enforced by the Department of Environment and Natural Resources.

(b) The Commission shall have the authority to make determinations and issue orders pursuant to the Oil and Gas Conservation Act to (i) regulate the spacing of wells and to establish drilling units as provided in G.S. 113-393; (ii) require the operation of wells with efficient gas-oil ratios and to fix such ratios; (iii) limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as provided in G.S. 113-394; and (iv) require integration of interests as provided in G.S. 113-393.

(c) The Commission shall submit quarterly written reports as to its operation, activities, programs, and progress to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission. The Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Joint Legislative Commission on Energy Policy and the Environmental Review Commission. The Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

"§ 143B-293.2. North Carolina Mining and Energy Commission – members; selection; removal; compensation; quorum; services.

(a) Members Selection. – The North Carolina Mining and Energy Commission shall consist of 15 members appointed as follows:

- (1) The Chair of the North Carolina State University Minerals Research Laboratory Advisory Committee, or the Chair's designee, ex officio.
- (2) The State Geologist, or the State Geologist's designee, ex officio.
- (3) The Assistant Secretary of Energy for the Department of Commerce, ex officio.
- (4) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of a nongovernmental conservation interest.
- (5) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is an elected official of a municipal government located in the Triassic Basin of North Carolina.
- (6) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of the Environmental Management Commission and knowledgeable in the principles of water and air resources management.
- (7) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who shall be a geologist with experience in oil and gas exploration and development.
- (8) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a nongovernmental conservation interest.
- (9) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a county board of commissioners of a county located in the Triassic Basin of North Carolina.
- (10) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of the Commission for Public Health and knowledgeable in the principles of waste management.

- (11) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who shall be an engineer with experience in oil and gas exploration and development.
- (12) One appointed by the Governor who shall be a representative of a publicly traded natural gas company.
- (13) One appointed by the Governor who shall be a licensed attorney with experience in legal matters associated with oil and gas exploration and development.
- (14) One appointed by the Governor who is a representative of the mining industry.
- (15) One appointed by the Governor who is a representative of the mining industry.

(b) Terms. – The term of office of members of the Commission is three years. A member may be reappointed to no more than two consecutive three-year terms. The term of a member who no longer meets the qualifications of their respective appointment, as set forth in subsection (a) of this section, shall terminate but the member may continue to serve until a new member who meets the qualifications is appointed. The terms of members appointed under subdivisions (4), (6), (9), and (12) of subsection (a) of this section shall expire on June 30 of years evenly divisible by three. The terms of members appointed under subdivisions (7), (10), (13), and (14) of subsection (a) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three. The terms of members appointed under subdivisions (5), (8), (11), and (15) of subsection (a) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three.

(c) Vacancies; Removal from Office. –

- (1) Any appointment by the Governor to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.
- (2) Members appointed by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. In accordance with Section 10 of Article VI of the North Carolina Constitution, a member may continue to serve until a successor is duly appointed.

(d) Compensation. – The members of the Commission shall receive per diem and necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.

(e) Quorum. – A majority of the Commission shall constitute a quorum for the transaction of business.

(f) Staff. – All staff support required by the Commission shall be supplied by the Division of Energy, Mineral, and Land Resources and the North Carolina Geological Survey.

(g) Committees. – In addition to the Committee on Civil Penalty Remissions required to be established under G.S. 143B-293.6, the chair may establish other committees from members of the Commission to address specific issues as appropriate. No member of a committee may hear or vote on any matter in which the member has an economic interest. A majority of a committee shall constitute a quorum for the transaction of business. At a minimum, the chair shall establish a Committee on Mining, which shall consist of members appointed under subdivisions (1), (4), (6), (8), (10), (14), and (15) of subsection (a) of this section. The Committee on Mining shall have exclusive responsibility and authority over matters pertaining to mining and implementation of the Mining Act of 1971, including all of the following powers and duties.

- (1) To act as the advisory body to the Governor pursuant to Article V(a) of the Interstate Mining Compact, as set out in G.S. 74-37.
- (2) To adopt rules necessary to administer the Mining Act of 1971 pursuant to G.S. 74-63.
- (3) To adopt rules necessary to administer the Control of Exploration for Uranium in North Carolina Act of 1983 pursuant to G.S. 74-86.
- (4) To adopt rules, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for mining resource purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

"§ 143B-293.4. North Carolina Mining and Energy Commission – officers.

The Mining and Energy Commission shall have a chair and a vice-chair. The Commission shall elect one of its members to serve as chair and one of its members to serve as vice-chair. The chair and vice-chair shall serve one-year terms beginning August 1 and ending July 31 of the following year. The chair and vice-chair may serve any number of terms, but not more than two terms consecutively.

"§ 143B-293.5. North Carolina Mining and Energy Commission – meetings.

The North Carolina Mining and Energy Commission shall meet at least quarterly and may hold special meetings at any time and place within the State at the call of the chair or upon the written request of at least nine members.

"§ 143B-293.6. North Carolina Mining and Energy Commission – quasi-judicial powers; procedures.

(a) With respect to those matters within its jurisdiction, the Mining and Energy Commission shall exercise quasi-judicial powers in accordance with the provisions of Chapter 150B of the General Statutes.

(b) The chair shall appoint a Committee on Civil Penalty Remissions from the members of the Commission. No member of the Committee on Civil Penalty Remissions may hear or vote on any matter in which the member has an economic interest. In determining whether a remission request will be approved, the Committee shall consider the recommendation of the Secretary or the Secretary's designee and all of the following factors:

- (1) Whether one or more of the civil penalty assessment factors in subsection (b) of this section were wrongly applied to the detriment of the petitioner.
- (2) Whether the violator promptly abated continuing environmental damage resulting from the violation.
- (3) Whether the violation was inadvertent or a result of an accident.
- (4) Whether the violator had been assessed civil penalties for any previous violations.
- (5) Whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

(c) The Committee on Civil Penalty Remissions may remit the entire amount of the penalty only when the violator has not been assessed civil penalties for previous violations and when payment of the civil penalty will prevent payment for the remaining necessary remedial actions."

SECTION 1.(c) Pursuant to G.S. 150B-21.7, rules adopted by the North Carolina Mining Commission shall remain in effect until amended or repealed by the North Carolina Mining and Energy Commission established pursuant to subsection (b) of this section.

SECTION 1.(d) The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the reconstitution of the North Carolina Mining Commission as the North Carolina Mining and Energy Commission as provided in subsection (b) of this section. The Codifier of Rules shall make the conforming rule changes necessary to reflect the reconstitution of the North Carolina Mining Commission to the North Carolina Mining and Energy Commission as provided in subsection (b) of this section.

SECTION 1.(e) The Division of Land Resources of the Department of Environment and Natural Resources is hereby renamed the Division of Energy, Mineral, and Land Resources.

SECTION 1.(f) The Revisor of Statutes shall make the conforming statutory changes necessary to reflect the renaming of the Division of Land Resources as the Division of Energy, Mineral, and Land Resources as provided in subsection (e) of this section. The Codifier of Rules shall make the conforming rule changes necessary to reflect the renaming of the Division of Land Resources as the Division of Energy, Mineral, and Land Resources as provided in subsection (e) of this section.

SECTION 1.(g) In order to maintain continuity and experience of membership, the Governor and the General Assembly should consider the members of the North Carolina Mining Commission, repealed pursuant to subsection (a) of this section, when appointing the members of the North Carolina Mining and Energy Commission, created by G.S. 143B-293.1, as enacted by subsection (b) of this section.

SECTION 1.(h) The North Carolina Mining and Energy Commission shall submit the first report due under G.S. 143B-293.1(c), as enacted by subsection (b) of this section, on or before January 1, 2013.

PART III. MINING AND ENERGY COMMISSION AND OTHER REGULATORY AGENCIES TO ESTABLISH REGULATORY PROGRAM FOR THE MANAGEMENT OF OIL AND GAS EXPLORATION AND DEVELOPMENT IN THE STATE AND THE USE OF HORIZONTAL DRILLING AND HYDRAULIC FRACTURING FOR THAT PURPOSE

SECTION 2.(a) G.S. 113-380 reads as rewritten:

"§ 113-380. **Violation a misdemeanor.**

~~Any~~ Except as otherwise provided, any person, firm or officer of a corporation violating any of the provisions of ~~G.S. 113-378 or 113-379,~~ this Article shall upon conviction thereof be guilty of a Class 1 misdemeanor."

SECTION 2.(b) G.S. 113-389 reads as rewritten:

"§ 113-389. **Definitions.**

Unless the context otherwise requires, the words defined in this section shall have the following meaning when found in this law:

- (1) "Base fluid" shall mean the continuous phase fluid type, such as water, used in a hydraulic fracturing treatment.
- (1a) "Commission" shall mean the North Carolina Mining and Energy Commission.
- (1b) "Department" shall mean the ~~Department~~ Department of Environment and Natural Resources," as created by this law. Resources.
- (1c) "Division" shall mean the Division of Energy, Mineral, and Land Resources of the Department of Environment and Natural Resources.
- (2) "Field" shall mean the general area which is underlaid or appears to be underlaid by at least one pool; and "field" shall include the underground reservoir or reservoirs containing crude petroleum oil or natural gas, or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; "field," unlike "pool," may relate to two or more pools.
- (3) "Gas" shall mean all natural gas, including casing-head gas, and all other hydrocarbons not defined as oil in subdivision (7).
- (3a) "Hydraulic fracturing additive" shall mean any chemical substance or combination of substances, including any chemical or proppants, which is intentionally added to a base fluid for purposes of preparing a hydraulic fracturing fluid or treatment of a well.

- (3b) "Hydraulic fracturing fluid" shall mean the fluid, including the applicable base fluid and all hydraulic fracturing additives, used to perform a hydraulic fracturing treatment.
- (3c) "Hydraulic fracturing treatment" shall mean all stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geologic formation to enhance production of oil and gas.
- ...
- (6a) "Lessee" shall mean the person entitled under an oil and gas lease to drill and operate wells.
- (6b) "Lessor" shall mean the owner of subsurface oil or gas resources who has executed a lease and who is entitled to the payment of a royalty on production.
- ...
- (12a) "Proppant" shall mean sand or any natural or man-made material that is used in a hydraulic fracturing treatment to prop open the artificially created or enhanced fractures once the treatment is completed.
- (12b) "Surface owner" means the person who holds record title to or has a purchaser's interest in the surface of real property.
- ...
- (15) "Water supply" shall mean any groundwater or surface water intended or used for human consumption; household purposes; or farm, livestock, or garden purposes."

SECTION 2.(c) G.S. 113-391 reads as rewritten:

"§ 113-391. Jurisdiction and authority; rules and orders.

(a) The Mining and Energy Commission, created by G.S. 143B-293.1, in conjunction with rule-making authority specifically reserved to the Environmental Management Commission under subsection (a3) of this section, shall establish a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing treatments for that purpose. The program shall be designed to protect public health and safety; protect public and private property; protect and conserve the State's air, water, and other natural resources; promote economic development and expand employment opportunities; and provide for the productive and efficient development of the State's oil and gas resources. To establish the program, the Commission shall adopt rules for all of the following purposes:

- (1) Regulation of pre-drilling exploration activities, including seismic and other geophysical and stratigraphic surveys and testing.
- (2) Regulation of drilling, operation, casing, plugging, completion, and abandonment of wells.
- (3) Prevention of pollution of water supplies by oil, gas, or other fluids used in oil and gas exploration and development.
- (4) Protection of the quality of the water, air, soil, or any other environmental resource against injury or damage or impairment.
- (5) Regulation of horizontal drilling and hydraulic fracturing treatments for the purpose of oil and gas exploration. Such rules shall, at a minimum, include standards or requirements related to the following:
 - a. Information and data to be submitted in association with applications for permits to conduct oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments, which may include submission of hydrogeological investigations and identification of mechanisms to prevent and diagnose sources of groundwater contamination in the area of drilling sites. In formulating these requirements, the Commission shall

- consider (i) how North Carolina's geology differs from other states where oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments are common and (ii) the routes of possible groundwater contamination resulting from these activities and the potential role of vertical geological structures such as dikes and faults as conduits for groundwater contamination.
- b. Collection of baseline data, including groundwater, surface water, and air quality in areas where oil and gas exploration and development activities are proposed. With regard to rules applicable to baseline data for groundwater and surface water, the Commission shall adopt rules that, at a minimum, establish standards to satisfy the pre-drilling testing requirement established under G.S. 113-421(a), including contaminants for which an operator or developer must test and necessary qualifications for persons conducting such tests.
 - c. Appropriate construction standards for oil and gas wells, which shall address the additional pressures of horizontal drilling and hydraulic fracturing treatments. These rules, at a minimum, shall include standards for casing and cementing sufficient to handle highly pressurized injection of hydraulic fracturing fluids into a well for purposes of fracturing bedrock and extraction of gas, and construction standards for other gas production infrastructure, such as storage pits and tanks.
 - d. Appropriate siting standards for wells and other gas production infrastructure, such as storage pits and tanks, including appropriate setback requirements and identification of areas, such as floodplains, where oil and gas exploration and production activities should be prohibited. Siting standards adopted shall be consistent with any applicable water quality standards adopted by the Environmental Management Commission or by local governments pursuant to water quality statutes, including standards for development in water supply watersheds.
 - e. Limits on water use, including, but not limited to, a requirement that oil and gas operators prepare and have a water and wastewater management plan approved by the Department, which, among other things, limits water withdrawals during times of drought and periods of low flows. Rules adopted shall be (i) developed in light of water supply in the areas of proposed activity, competing water uses in those areas, and expected environmental impacts from such water withdrawals and (ii) consistent with statutes, and rules adopted by the Environmental Management Commission pursuant to those statutes, which govern water quality and management of water resources, including, but not limited to, statutes and rules applicable to water withdrawal registration, interbasin transfer requirements, and water quality standards related to wastewater discharges.
 - f. Management of wastes produced in connection with oil and gas exploration and development and use of horizontal drilling and hydraulic fracturing treatments for that purpose. Such rules shall address storage, transportation, and disposal of wastes that may contain radioactive materials or wastes that may be toxic or have other hazardous wastes' characteristics that are not otherwise regulated as a hazardous waste by the federal Resource Conservation and Recovery Act (RCRA), such as top-hole water, brines, drilling

- fluids, additives, drilling muds, stimulation fluids, well servicing fluids, oil, production fluids, and drill cuttings from the drilling, alteration, production, plugging, or other activity associated with oil and gas wells. Wastes generated in connection with oil and gas exploration and development and use of horizontal drilling and hydraulic fracturing treatments for that purpose that constitute hazardous waste under RCRA shall be subject to rules adopted by the Commission for Public Health to implement RCRA requirements in the State.
- g. Prohibitions on use of certain chemicals and constituents in hydraulic fracturing fluids, particularly diesel fuel.
 - h. Disclosure of chemicals and constituents used in oil and gas exploration, drilling, and production, including hydraulic fracturing fluids, to State regulatory agencies and to local government emergency response officials, and, with the exception of those items constituting trade secrets, as defined in G.S. 66-152(3), and that are designated as confidential or as a trade secret under G.S. 132-1.2, requirements for disclosure of those chemicals and constituents to the public.
 - i. Installation of appropriate safety devices and development of protocols for response to well blowouts, chemical spills, and other emergencies, including requirements for approved emergency response plans and certified personnel to implement these plans as needed.
 - j. Measures to mitigate impacts on infrastructure, including damage to roads by truck traffic and heavy equipment, in areas where oil and gas exploration and development activities that use horizontal drilling and hydraulic fracturing technologies are proposed to occur.
 - k. Notice, record keeping, and reporting.
 - l. Proper well closure, site reclamation, post-closure monitoring, and financial assurance. Rules for financial assurance shall require that an oil or gas developer or operator establish financial assurance that will ensure that sufficient funds are available for well closure, post-closure maintenance and monitoring, any corrective action that the Department may require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences, and subsequent costs incurred by the Department in response to an incident involving a drilling operation, even if the developer or operator becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State.
- (6) To require surveys upon application of any owner who has reason to believe that a well has been unlawfully drilled by another person into land of the owner without permission. In the event such surveys are required, the costs thereof shall be borne by the owner making the request.
 - (7) To require the making of reports showing the location of oil and gas wells and the filing of logs and drilling records.
 - (8) To prevent "blowouts," "caving," and "seepage," as such terms are generally understood in the oil and gas industry.
 - (9) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and all storage and transportation equipment and facilities.
 - (10) To regulate the "shooting," perforating, and chemical treatment of wells.

- (11) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substances into producing formations.
- (12) To regulate the spacing of wells and to establish drilling units.
- (13) To regulate and, if necessary in its judgment for the protection of unique environmental values, to prohibit the location of wells in the interest of protecting the quality of the water, air, soil, or any other environmental resource against injury, damage, or impairment.
- (14) Any other matter the Commission deems necessary for implementation of a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing for that purpose.

(a1) The regulatory program required to be established and the rules required to be adopted pursuant to subsection (a) of this section shall not include a program or rules for the regulation of oil and gas exploration and development in the waters of the Atlantic Ocean and the coastal sounds as defined in G.S. 113A-103.

(a2) In addition to the matters for which the Commission is required to adopt rules pursuant to subsection (a) of this section, the Commission may adopt rules as it deems necessary for any of the following purposes:

- (1) To require the operation of wells with efficient gas-oil ratios and to fix such ratios.
- (2) To limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as defined in this Article and rules adopted thereunder.
- (3) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation of oil or gas.
- (4) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counter-drainage.

(a3) The Environmental Management Commission shall adopt rules, after consideration of recommendations from the Mining and Energy Commission, for all of the following purposes:

- (1) Stormwater control for sites on which oil and gas exploration and development activities are conducted.
- (2) Regulation of toxic air emissions from drilling operations. In formulating appropriate standards, the Department shall assess emissions from oil and gas exploration and development activities that use horizontal drilling and hydraulic fracturing technologies, including emissions from associated truck traffic, in order to (i) determine the adequacy of the State's current air toxics program to protect landowners who lease their property to drilling operations and (ii) determine the impact on ozone levels in the area in order to determine measures needed to maintain compliance with federal ozone standards.

(a4) The Department shall have jurisdiction and authority of and over all persons and property necessary to administer and enforce effectively the provisions of this law Article, and rules adopted thereunder, and all other laws relating to the conservation of oil and gas, except for jurisdiction and authority reserved to the Department of Labor and the Mining and Energy Commission, as otherwise provided. The Commission and the Department may issue orders as may be necessary from time to time in the proper administration and enforcement of this Article and rules adopted thereunder.

(b) The Commission and the Department, as appropriate, shall have the authority and it shall be its duty to make such inquiries as it may think be proper to determine whether or not waste over which it has jurisdiction exists or is imminent. implement the provisions of this Article. In the exercise of such power the Commission and the Department, as appropriate, shall have the authority to collect data; to make

investigations and inspections; to examine properties, leases, papers, books and records; to examine, check, test and gauge oil and gas wells, tanks, refineries, and means of transportation; to hold hearings; and to provide for the keeping of records and the making of reports; and to take such action as may be reasonably necessary to enforce this law.

(b1) In the exercise of their respective authority over oil and gas exploration and development activities, the Commission and the Department, as applicable, shall have access to all data, records, and information related to such activities, including, but not limited to, seismic surveys, stratigraphic testing, geologic cores, proposed well bore trajectories, hydraulic fracturing fluid chemicals and constituents, drilling mud chemistry, and geophysical borehole logs. With the exception of information 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, the Department shall make any information it receives available to the public. The State Geologist shall serve as the custodian of all data, information, and records received by the Department pursuant to this subsection and shall ensure that the information is maintained securely as provided in G.S. 132-7.

~~(e) The Department may make rules and orders as may be necessary from time to time in the proper administration and enforcement of this law, including rules or orders for the following purposes:~~

- ~~(1) To require the drilling, operation, casing and plugging of wells to be done in such manner as to prevent the escape of oil or gas out of one stratum to another; to prevent the intrusion of water into an oil or gas stratum from a separate stratum; to prevent the pollution of freshwater supplies by oil, gas or salt water, or to protect the quality of the water, air, soil or any other environmental resource against injury or damage or impairment; and to require reasonable bond condition for the performance of the duty to plug each dry or abandoned well.~~
- ~~(2) To require directional surveys upon application of any owner who has reason to believe that a well or wells of others has or have been drilled into the lands owned by him or held by him under lease. In the event such surveys are required, the costs thereof shall be borne by the owners making the request.~~
- ~~(3) To require the making of reports showing the location of oil and gas wells, and the filing of logs and drilling records.~~
- ~~(4) To prevent the drowning by water of any stratum or part thereof capable of producing oil or gas in paying quantities, and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.~~
- ~~(5) To require the operation of wells with efficient gas-oil ratios, and to fix such ratios.~~
- ~~(6) To prevent "blow-outs," "caving" and "seepage" in the sense that conditions indicated by such terms are generally understood in the oil and gas business.~~
- ~~(7) To prevent fires.~~
- ~~(8) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures and all storage and transportation equipment and facilities.~~
- ~~(9) To regulate the "shooting," perforating, and chemical treatment of wells.~~
- ~~(10) To regulate secondary recovery methods, including the introduction of gas, air, water or other substances into producing formations.~~
- ~~(11) To limit and prorate the production of oil or gas, or both, from any pool or field for the prevention of waste as herein defined.~~
- ~~(12) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation of oil or gas.~~
- ~~(13) To regulate the spacing of wells and to establish drilling units.~~

- (14) ~~To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counter drainage.~~
- (15) ~~To prevent where necessary the use of gas for the manufacture of carbon black.~~
- (16) ~~To regulate and, if necessary in its judgment for the protection of unique environmental values, to prohibit the location of wells in the interest of protecting the quality of the water, air, soil or any other environmental resource against injury, or damage or impairment.~~

(d) The Department of Labor shall develop, adopt, and enforce rules establishing health and safety standards for workers engaged in oil and gas operations in the State, including operations in which hydraulic fracturing treatments are used for that purpose.

(e) The Department shall submit an annual report on its activities conducted pursuant to this Article and rules adopted thereunder to the Environmental Review Commission, the Joint Legislative Commission on Energy Policy, the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources, and the Fiscal Research Division of the General Assembly on or before October 1 of each year."

SECTION 2.(d) G.S. 113-392 reads as rewritten:

"§ 113-392. **Protecting pool owners; drilling units in pools; location of wells; shares in pools.**

(a) Whether or not the total production from a pool be limited or prorated, no rule or order of the ~~Department Commission~~ shall be such in terms or effect.

- (1) That it shall be necessary at any time for the producer from, or the owner of, a tract of land in the pool, in order that he may obtain such tract's just and equitable share of the production of such pool, as such share is set forth in this section, to drill and operate any well or wells on such tract in addition to such well or wells as can produce without waste such share, or
- (2) As to occasion net drainage from a tract unless there be drilled and operated upon such tract a well or wells in addition to such well or wells thereon as can produce without waste such tract's just and equitable share, as set forth in this section, of the production of such pool.

(b) For the prevention of waste and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the ~~Commission Department~~ shall, after a hearing, establish a drilling unit or units for each pool. The ~~Commission Department~~ may establish drainage units of uniform size for the entire pool or may, if the facts so justify, divide into zones any pool, establish a drainage unit for each zone, which unit may differ in size from that established in any other zone; and the ~~Commission Department~~ may from time to time, if the facts so justify, change the size of the unit established for the entire pool or for any zone or zones, or part thereof, establishing new zones and units if the facts justify their establishment.

(c) Each well permitted to be drilled upon any drilling unit shall be drilled approximately in the center thereof, with such exception as may reasonably be necessary where it is shown, after notice and upon hearing, and the ~~Commission Department~~ finds that the unit is partly outside the pool or, for some other reason, a well approximately in the center of the unit would be nonproductive or where topographical conditions are such as to make the drilling approximately in the center of the unit unduly burdensome. Whenever an exception is granted, the ~~Commission Department~~ shall take such action as will offset any advantage which the person securing the exception may have over producers by reason of the drilling of the well as an exception, and so that drainage from developed units to the tract with respect to which the exception is granted will be prevented or minimized and the producer of the well drilled as an exception will be allowed to produce no more than his just and equitable share of the oil and gas in the pool, as such share is set forth in this section.

(d) Subject to the reasonable requirements for prevention of waste, a producer's just and equitable share of the oil and gas in the pool (also sometimes referred to as a tract's just and equitable share) is that part of the authorized production for the pool (whether it be the total which could be produced without any restriction on the amount of production, or whether it be an amount less than that which the pool could produce if no restriction on the amount were imposed) which is substantially in the proportion that the quantity of recoverable oil and gas in the developed area of his tract in the pool bears to the recoverable oil and gas in the total developed area of the pool, insofar as these amounts can be ascertained practically; and to that end, the rules, permits and orders of the ~~Commission~~ Department shall be such as will prevent or minimize reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counter-drainage), and will give to each producer the opportunity to use his just and equitable share of the reservoir energy."

SECTION 2.(e) G.S. 113-394 reads as rewritten:

"§ 113-394. Limitations on production; allocating and prorating "allowables."

(a) Whenever the total amount of oil, including condensate, which all the pools in the State can produce, exceeds the amount reasonably required to meet the reasonable market demand for oil, including condensate, produced in this State, then the ~~Department~~ Commission shall limit the total amount of oil, including condensate, which may be produced in the State by fixing an amount which shall be designated "allowable" for this State, which will not exceed the reasonable market demand for oil, including condensate, produced in this State. The ~~Commission~~ Department shall then allocate or distribute the "allowable" for the State among the pools on a reasonable basis and in such manner as to avoid undue discrimination, and so that waste will be prevented. In allocating the "allowable" for the State, and in fixing "allowables" for pools producing oil or hydrocarbons forming condensate, or both oil and such hydrocarbons, the ~~Department~~ Commission shall take into account the producing conditions and other relevant facts with respect to such pools, including the separate needs for oil, gas and condensate, and shall formulate rules setting forth standards or a program for the distribution of the "allowable" for the State, and shall distribute the "allowable" for the State in accordance with such standards or program, and where conditions in one pool or area are substantially similar to those in another pool or area, then the same standards or programs shall be applied to such pools and areas so that as far as practicable a uniform program will be followed; provided, however, the ~~Department~~ Commission shall ~~permit~~ allow the production of a sufficient amount of natural gas from any pool to supply adequately the reasonable market demand for such gas for light and fuel purposes if such production can be obtained without waste, and the condensate "allowable" for such pool shall not be less than the total amount of condensate produced or obtained in connection with the production of the gas "allowable" for light and fuel purposes, and provided further that, if the amount allocated to pool as its share of the "allowable" for the State is in excess of the amount which the pool should produce to prevent waste, then the ~~Department~~ Commission shall fix the "allowable" for the pool so that waste will be prevented.

(b) The ~~Commission~~ Department shall not be required to determine the reasonable market demand applicable to any single pool except in relation to all pools producing oil of similar kind and quality and in relation to the demand applicable to the State, and in relation to the effect of limiting the production of pools in the State. In allocating "allowables" to pools, the ~~Department~~ Commission shall not be bound by nominations or desires of purchasers to purchase oil from particular fields or areas, and the ~~Commission~~ Department shall allocate the "allowable" for the State in such manner as will prevent undue discrimination against any pool or area in favor of another or others which would result from selective buying or nominating by purchasers of oil, as such term "selective buying or nominating" is understood in the oil business.

(c) Whenever the ~~Department~~ Commission limits the total amount of oil or gas which may be produced in any pool in this State to an amount less than that which the pool could produce if no restrictions were imposed (which limitation may be imposed either incidental to,

or without, a limitation of the total amount of oil or gas which may be produced in the State), the ~~Department-Commission~~ shall prorate or distribute the "allowable" production among the producers in the pool on a reasonable basis, and so that each producer will have the opportunity to produce or receive his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), subject to the reasonable necessities for the prevention of waste.

(d) Whenever the total amount of gas which can be produced from any pool in this State exceeds the amount of gas reasonably required to meet the reasonable market demand therefrom, the ~~Commission Department~~ shall limit the total amount of gas which may be produced from such pool. The ~~Commission Department~~ shall then allocate or distribute the allowable production among the developed areas in the pool on a reasonable basis, so that each producer will have the opportunity to produce his just and equitable share, as such share is set forth in subsection G.S. 113-392(d), whether the restriction for the pool as a whole is accomplished by order or by the automatic operation of the prohibitory provisions of this law. As far as applicable, the provisions of subsection (a) of this section shall be followed in allocating any "allowable" of gas for the State.

(e) After the effective date of any rule or order of the ~~Department-Commission~~ fixing the "allowable" production of oil or gas, or both, or condensate, no person shall produce from any well, lease, or property more than the "allowable" production which is fixed, nor shall such amount be produced in a different manner than that which may be authorized."

SECTION 2.(f) G.S. 113-410 reads as rewritten:

"§ 113-410. Penalties for other violations.

(a) Any person who fails to secure a permit prior to drilling a well or using hydraulic fracturing treatments, or who knowingly and willfully violates any provision of this law, Article, or any rule or order of the Commission or the Department made hereunder, shall, in the event a penalty for such violation is not otherwise provided for herein, be subject to a penalty of not to exceed ~~one-twenty-five thousand dollars (\$1,000)~~ (\$25,000) a day for each and every day of such violation, and for each and every act of violation, such penalty to be recovered in a suit in the superior court of the county where the defendant resides, or in the county of the residence of any defendant if there be more than one defendant, or in the superior court of the county where the violation took place. The place of suit shall be selected by the Department, and such suit, by direction of the Department, shall be instituted and conducted in the name of the Department by the Attorney General. The payment of any penalty as provided for herein shall not have the effect of changing illegal oil into legal oil, illegal gas into legal gas, or illegal product into legal product, nor shall such payment have the effect of authorizing the sale or purchase or acquisition, or the transportation, refining, processing, or handling in any other way, of such illegal oil, illegal gas or illegal product, but, to the contrary, penalty shall be imposed for each prohibited transaction relating to such illegal oil, illegal gas or illegal product.

(b) Any person knowingly and willfully aiding or abetting any other person in the violation of any statute of this State relating to the conservation of oil or gas, or the violation of any provisions of this law, or any rule or order made thereunder, shall be subject to the same penalties as prescribed ~~herein~~ in subsection (a) of this section for the violation by such other person.

(c) In determining the amount of a penalty under this section, the Department shall consider all of the following factors:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation.
- (2) The duration and gravity of the violation.
- (3) The effect on ground or surface water quantity or quality or on air quality.
- (4) The cost of rectifying the damage.
- (5) The amount of money the violator saved by noncompliance.
- (6) Whether the violation was committed willfully or intentionally.

(7) The prior record of the violator in complying or failing to comply with this Article or a rule adopted pursuant to this Article.

(8) The cost to the State of the enforcement procedures.

(d) If any civil penalty has not been paid within 60 days after notice of assessment has been served on the violator or within 30 days after service of the final decision by the administrative law judge in accordance with G.S. 150B-34, a final decision by the Committee on Civil Penalty Remissions established under G.S. 143B-293.6, or a court order, whichever is later, the Secretary or the Secretary's designee shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the civil penalty.

(e) The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2.(g) G.S. 113-415 reads as rewritten:

"§ 113-415. **Conflicting laws.**

No provision of this Article shall be construed to repeal, amend, abridge or otherwise ~~effect~~ affect: (i) the authority and responsibility vested in the Environmental Management Commission by Article 7 of Chapter ~~87~~ 87 of the General Statutes, pertaining to the location, construction, repair, operation and abandonment of wells, or the authority and responsibility vested in the Environmental Management Commission related to the control of water and air pollution as provided in Articles 21 and 21A of Chapter 143 of the General Statutes; ~~or~~ (ii) the authority or responsibility vested in the Department and the Commission for Public Health by Article 10 of Chapter 130A of the General Statutes pertaining to public water-supply ~~requirements~~ requirements, or the authority and responsibility vested in the Commission for Public Health related to the management of solid and hazardous waste as provided in Article 9 of Chapter 130A of the General Statutes."

SECTION 2.(h) G.S. 143B-282 reads as rewritten:

"§ 143B-282. **Environmental Management Commission – creation; powers and duties.**

...

(2) The Environmental Management Commission shall adopt rules:

...

1. For matters within its jurisdiction that allow for and regulate horizontal drilling and hydraulic fracturing for the purpose of oil and gas exploration and development.

...."

SECTION 2.(i) G.S. 130A-29 reads as rewritten:

"§ 130A-29. **Commission for Public Health – Creation, powers and duties.**

...

(c) The Commission shall adopt rules:

...

(11) For matters within its jurisdiction that allow for and regulate horizontal drilling and hydraulic fracturing for the purpose of oil and gas exploration and development.

...."

SECTION 2.(j) The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources, the Department of Transportation, the North Carolina League of Municipalities, and the North Carolina Association of County Commissioners, shall identify appropriate levels of funding and potential sources for that funding, including permit fees, bonds, taxes, and impact fees, necessary to (i) support local governments impacted by the industry and associated activities; (ii) address expected infrastructure impacts, including, but not limited to, repair of roads damaged by truck traffic and heavy equipment; (iii) cover any costs to the State for administering an oil and gas regulatory program, including remediation and reclamation of drilling sites when necessary due to abandonment or insolvency of an oil or gas operator or other responsible party; and (iv) any

other issues that may need to be addressed in the Commission's determination. Any recommendation concerning local impact fees shall be formulated to require that all such fees be used exclusively to address infrastructure impacts from the drilling operation for which a fee is imposed. The Commission shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on or before January 1, 2013.

SECTION 2.(k) The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources, the North Carolina League of Municipalities, and the North Carolina Association of County Commissioners, shall examine the issue of local government regulation of oil and gas exploration and development activities, and the use of horizontal drilling and hydraulic fracturing for that purpose. The Commission shall formulate recommendations that maintain a uniform system for the management of such activities, which allow for reasonable local regulations, including required setbacks, infrastructure placement, and light and noise restrictions, that do not prohibit or have the effect of prohibiting oil and gas exploration and development activities, and the use of horizontal drilling and hydraulic fracturing for that purpose, or otherwise conflict with State law. The Commission shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on or before January 1, 2013.

SECTION 2.(l) The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources and the Consumer Protection Division of the North Carolina Department of Justice, shall study the State's current law on the issue of integration or compulsory pooling and other states' laws on the matter. The Department shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on or before January 1, 2013.

SECTION 2.(m) All rules required to be adopted by the Mining and Energy Commission, the Environmental Management Commission, and the Commission for Public Health pursuant to this act shall be adopted no later than October 1, 2014. In order to provide for the orderly, efficient, and effective development and adoption of rules and to prevent the adoption of duplicative, inconsistent, or inadequate rules by these Commissions, the Department of Environment and Natural Resources shall coordinate the adoption of the rules. The Commissions and the Department shall develop the rules in an open and collaborative process that includes (i) input from scientific and technical advisory groups; (ii) consultation with the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the Division of Energy of the Department of Commerce, the Department of Transportation, the Division of Emergency Management of the Department of Public Safety, the Consumer Protection Division of the Department of Justice, the Department of Labor, the Department of Health and Human Services, the State Review of Oil and Natural Gas Environmental Regulations (STRONGER), the American Petroleum Institute (API), and the Rural Advancement Foundation (RAFI-USA); and (iii) broad public participation. During the development of the rules, the Commissions and the Department shall identify changes required to all existing rules and statutes necessary for the implementation of this act, including repeal or modification of rules and statutes. Until such time as all of the rules are adopted pursuant to this act, the Department shall submit quarterly reports to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on its progress in developing and adopting the rules. The quarterly reports shall include recommendations on changes required to existing rules and statutes and any other findings or recommendations necessary for the implementation of this act. The first report required by this subsection is due January 1, 2013.

SECTION 2.(n) Notwithstanding G.S. 143B-293.5, as enacted by Section 1(b) of this act, the North Carolina Mining and Energy Commission shall meet at least twice quarterly until December 31, 2015, in order to develop a modern regulatory program for the management of oil and gas exploration and development activities in the State, including the use of horizontal drilling and hydraulic fracturing for that purpose.

PART IV. AUTHORIZE HORIZONTAL DRILLING AND HYDRAULIC FRACTURING; PROHIBIT ISSUANCE OF PERMITS PENDING SUBSEQUENT LEGISLATIVE ACTION

SECTION 3.(a) G.S. 113-393 reads as rewritten:

"§ 113-393. **Development of lands as drilling unit by agreement or order of Department-Commission.**

(a) **Integration of Interests and Shares in Drilling Unit.** – When two or more separately owned tracts of land are embraced within an established drilling unit, the owners thereof may agree validly to integrate their interests and to develop their lands as a drilling unit. Where, however, such owners have not agreed to integrate their interests, the Department-Commission shall, for the prevention of waste or to avoid drilling of unnecessary wells, require such owners to do so and to develop their lands as a drilling unit. All orders requiring such integration shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and will afford to the owner of each tract the opportunity to recover or receive his just and equitable share of the oil and gas in the pool without unnecessary expense, and will prevent or minimize reasonably avoidable drainage from each developed unit which is not equalized by counter-drainage. The portion of the production allocated to the owner of each tract included in a drilling unit formed by an integration order shall, when produced, be considered as if it had been produced from such tract by a well drilled thereon.

In the event such integration is required, and provided also that after due notice to all the owners of tracts within such drilling unit of the creation of such drilling unit, and provided further that the Department-Commission has received no protest thereto, or request for hearing thereon, whether or not 10 days have elapsed after notice has been given of the creation of the drilling unit, the operator designated by the Department-Commission to develop and operate the integrated unit shall have the right to charge to each other interested owner the actual expenditures required for such purpose not in excess of what are reasonable, including a reasonable charge for supervision, and the operator shall have the right to receive the first production from the well drilled by him thereon, which otherwise would be delivered or paid to the other parties jointly interested in the drilling of the well, so that the amount due by each of them for his shares of the expense of drilling, equipping, and operating the well may be paid to the operator of the well out of production; with the value of the production calculated at the market price in the field at the time such production is received by the operator or placed to his credit. After being reimbursed for the actual expenditures for drilling and equipping and operating expenses incurred during the drilling operations and until the operator is reimbursed, the operator shall thereafter pay to the owner of each tract within the pool his ratable share of the production calculated at the market price in the field at the time of such production less the reasonable expense of operating the well. In the event of any dispute relative to such costs, the Department-Commission shall determine the proper costs.

(b) **When Each Owner May Drill.** – Should the owners of separate tracts embraced within a drilling unit fail to agree upon the integration of the tracts and the drilling of a well on the unit, and should it be established that the Department-Commission is without authority to require integration as provided for in subsection (a) of this section, then, subject to all other applicable provisions of this law, the owner of each tract embraced within the drilling unit may drill on his tract, but the allowable production from each tract shall be such proportion of the allowable for the full drilling unit as the area of such separately owned tract bears to the full drilling unit.

(c) Cooperative Development Not in Restraint of Trade. – Agreements made in the interests of conservation of oil or gas, or both, or for the prevention of waste, between and among owners or operators, or both, owning separate holdings in the same oil or gas pool, or in any area that appears from geological or other data to be underlain by a common accumulation of oil or gas, or both, or between and among such owners or operators, or both, and royalty owners therein, of a pool or area, or any part thereof, as a unit for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the ~~Department, Commission,~~ are hereby authorized and shall not be held or construed to violate any of the statutes of this State relating to trusts, monopolies, or contracts and combinations in restraining of trade.

(d) Variation from Vertical. – Whenever the Department fixes the location of any well or wells on the surface, the point at which the maximum penetration of such wells into the producing formation is reached shall not unreasonably vary from the vertical drawn from the center of the hole at the surface, provided, that the ~~Department Commission~~ shall prescribe rules and ~~the Department shall prescribe~~ orders governing the reasonableness of such variation. This subsection shall not apply to wells drilled for the purpose of exploration or development of natural gas through use of horizontal drilling in conjunction with hydraulic fracturing treatments."

SECTION 3.(b) G.S. 143-214.2 reads as rewritten:

"§ 143-214.2. Prohibited discharges.

(a) The discharge of any radiological, chemical or biological warfare agent or high-level radioactive waste to the waters of the State is prohibited.

(b) The discharge of any wastes to the subsurface or groundwaters of the State by means of wells is prohibited. This section shall not be construed to ~~prohibit prohibit~~ (i) the operation of closed-loop groundwater remediation systems in accordance with ~~G.S. 143-215.1A~~ G.S. 143-215.1A or (ii) injection of hydraulic fracturing fluid for the exploration or development of natural gas resources.

(c) Unless permitted by a rule of the Commission, the discharge of wastes, including thermal discharges, to the open waters of the Atlantic Ocean over which the State has jurisdiction are prohibited."

SECTION 3.(c) G.S. 113-395 reads as rewritten:

"§ 113-395. Permits, fees, and notice required for oil and gas activities.~~Notice and payment of fee to Department before drilling or abandoning well; plugging abandoned well.~~

(a) Before any well, in search of oil or gas, shall be drilled, the person desiring to drill the same shall ~~notify~~ submit an application for a permit to the Department upon such form as ~~it~~ the Department may prescribe and shall pay a fee of three thousand dollars (\$3,000) for each well. The drilling of any well is ~~hereby prohibited until such notice is given and such fee has been paid and permit granted.~~ unless the Department has issued a permit for the activity.

(b) Any person desiring to use hydraulic fracturing treatments in conjunction with oil and gas operations or activities shall submit an application for a permit to the Department upon such form as the Department may prescribe. The use of hydraulic fracturing treatments is prohibited unless the Department has issued a permit for the activity.

(c) Each abandoned well and each dry hole shall be plugged promptly in the manner and within the time required by rules prescribed by the Department, and the owner of such well shall give notice, upon such form as the Department may prescribe, of the abandonment of each dry hole and of the owner's intention to abandon, and shall pay a fee of four hundred fifty dollars (\$450.00). No well shall be abandoned until such notice has been given and such fee has been paid."

SECTION 3.(d) The issuance of permits for oil and gas exploration and development activities using horizontal drilling and hydraulic fracturing treatments in the State pursuant to G.S. 113-395, as amended by subsection (c) of this section, or any other provision of law shall be prohibited in order to allow the Mining and Energy Commission sufficient time

for development of a modern regulatory program for the management of oil and gas exploration and development in the State and the use of horizontal drilling and hydraulic fracturing treatments for that purpose, and for adoption of appropriate environmental standards applicable to these activities. No agency of the State, including the Department of Environment and Natural Resources, the Environmental Management Commission, the Commission on Public Health, or the Mining and Energy Commission, shall issue a permit for oil or gas exploration or development activities using horizontal drilling and hydraulic fracturing treatments until the General Assembly takes legislative action to allow the issuance of such permits.

PART V. LANDOWNER AND PUBLIC PROTECTIONS

SECTION 4.(a) G.S. 113-420 reads as rewritten:

"§ 113-420. **Notice and entry to property.**

(a) Notice Required for Activities That Do Not Disturb Surface of Property. – If an oil ~~and~~ or gas developer or operator is not the surface owner of the property on which oil and gas operations are to occur, before entering the property for oil ~~and~~ or gas operations that do not disturb the surface, including inspections, staking, surveys, measurements, and general evaluation of proposed routes and sites for oil ~~and~~ or gas drilling operations, the developer or operator shall give written notice to the surface owner at least ~~seven~~ 14 days before the desired date of entry to the property. Notice shall be given by certified mail, return receipt requested. The requirements of this subsection may not be waived by agreement of the parties. The notice, at a minimum, shall include all of the following:

- (1) The identity of person(s) requesting entry upon the property.
- (2) The purpose for entry on the property.
- (3) The dates, times, and location on which entry to the property will occur, including the estimated number of entries.

(b) Notice Required for Land-Disturbing Activities. – If an oil ~~and~~ or gas developer or operator is not the surface owner of the property on which oil ~~and~~ or gas operations are to occur, before entering the property for oil ~~and~~ or gas operations that disturb the surface, the developer or operator shall give written notice to the surface owner at least ~~14~~ 30 days before the desired date of entry to the property. Notice shall be given by certified mail, return receipt requested. The notice, at a minimum, shall include all of the following:

- (1) A description of the exploration or development plan, including, but not limited to (i) the proposed locations of any roads, drill pads, pipeline routes, and other alterations to the surface estate and (ii) the proposed date on or after which the proposed alterations will begin.
- (2) An offer of the oil and gas developer or operator to consult with the surface owner to review and discuss the location of the proposed alterations.
- (3) The name, address, telephone number, and title of a contact person employed by or representing the oil or gas developer or operator who the surface owner may contact following the receipt of notice concerning the location of the proposed alterations.

(b1) Persons Entering Land; Identification Required; Presumption of Proper Protection While on Surface Owners' Property. – Persons who enter land on behalf of an oil or gas developer or operator for oil and gas operations shall carry on their person identification sufficient to identify themselves and their employer or principal and shall present the identification to the surface owner upon request. Entry upon land by such a person creates a rebuttable presumption that the surface owner properly protected the person against personal injury or property damage while the person was on the land.

(c) Venue. – If the oil ~~and~~ or gas developer or operator fails to give notice or otherwise comply with the provisions of as provided in this section, the surface owner may seek appropriate relief in the superior court for the county in which the oil or gas well is located and may receive actual damages."

SECTION 4.(b) G.S. 113-421 reads as rewritten:

"§ 113-421. ~~Compensation for damages.~~ Presumptive liability for water contamination; compensation for other damages; responsibility for reclamation.

(a) Presumptive Liability for Water Contamination. – It shall be presumed that an oil or gas developer or operator is responsible for contamination of all water supplies that are within 5,000 feet of a wellhead that is part of the oil or gas developer's or operator's activities unless the presumption is rebutted by a defense established as set forth in subdivision (1) of this subsection. If a contaminated water supply is located within 5,000 feet of a wellhead, in addition to any other remedy available at law or in equity, including payment of compensation for damage to a water supply, the developer or operator shall provide a replacement water supply to the surface owner and other persons using the water supply at the time the oil or gas developer's activities were commenced on the property, which water supply shall be adequate in quality and quantity for those persons' use.

(1) In order to rebut a presumption arising pursuant to subsection (a) of this section, an oil or gas developer or operator shall have the burden of proving by a preponderance of the evidence any of the following:

- a. The contamination existed prior to the commencement of the drilling activities of the oil or gas developer or operator, as evidenced by a pre-drilling test of the water supply in question conducted in conformance with G.S. 113-423(f).
- b. The surface owner or owner of the water supply in question refused the oil or gas developer or operator access to conduct a pre-drilling test of the water supply conducted in conformance with G.S. 113-423(f).
- c. The water supply in question is not within 5,000 feet of a wellhead that is part of the oil or gas developer's or operator's activities.
- d. The contamination occurred as the result of a cause other than activities of the developer or operator.

(a1) Compensation for Other Damages Required. – The oil ~~and~~ or gas developer or operator shall be obligated to pay the surface owner compensation for all of the following:

- (1) Any damage to a water supply in use prior to the commencement of the activities of the developer or operator which is due to those activities.
- (2) The cost of repair of personal property of the surface owner, which personal property is damaged due to activities of the developer or operator, up to the value of replacement by personal property of like age, wear, and quality.
- (3) Damage to any livestock, crops, or timber determined according to the market value of the resources destroyed, damaged, or prevented from reaching market due to the oil or gas developer's or operator's activities.

(a2) Reclamation of Surface Property Required. – An oil or gas developer or operator shall reclaim all surface areas affected by its operations no later than two years following completion of the operations. If the developer or operator is not the surface owner of the property, prior to commencement of activities on the property, the oil or gas developer or operator shall provide a bond running to the surface owner sufficient to cover reclamation of the surface owner's property.

(a3) Remediation Required. – Nothing in this Article shall be construed to obviate or affect the obligation of a developer or operator to comply with any other requirement under law to remediate contamination caused by its activities.

(a4) Replacement Water Supply Required. – If a water supply belonging to the surface owner or third parties is contaminated due to the activities of the developer or operator, in addition to any other remedy available at law or in equity, the developer or operator shall provide a replacement water supply to persons using the water supply at the time the oil or gas developer's activities were commenced on the property, which water supply shall be adequate in quality and quantity for those persons' use.

(b) Time Frame for Compensation. – When compensation is required, the surface owner shall have the option of accepting a one-time payment or annual payments for a period of time not less than 10 years.

(c) Venue. – The surface owner has the right to seek damages pursuant to this section in the superior court for the county in which the oil or gas well is located. The superior court for the county in which the oil or gas well is located has jurisdiction over all proceedings brought pursuant to this section. If the surface owner or the surface owner's assignee is the prevailing party in an action to recover unpaid ~~royalties, royalties~~ or other damages owed due to activities of the developer or operator, the court shall award any court costs and reasonable attorneys' fees to the surface owner or the surface owner's assignee.

(d) Conditions precedent, notice provisions, or arbitration clauses included in lease documents that have the effect of limiting access to the superior court in the county in which the oil or gas well is located are void and unenforceable."

SECTION 4.(c) G.S. 113-422 reads as rewritten:

"§ 113-422. **Indemnification.**

An oil or gas developer or operator shall indemnify and hold harmless a surface owner against any claims related to the developer's or operator's activities on the surface owner's property, including, but not limited to, (i) claims of injury or death to any person; (ii) for damage to impacted infrastructure or water supplies; (iii) damage to a third party's property that is adjacent to property on which drilling occurs, as well as real or personal property; adjacent infrastructure, and wells; and (iv) violations of any federal, State, or local law, rule, regulation, or ordinance, including those for protection of the environment."

SECTION 4.(d) G.S. 113-423 reads as rewritten:

"§ 113-423. **Maximum Required lease terms.**

(a) Required Information to be Provided to Potential Lessors and Surface Owners. – Prior to executing a lease for oil and gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property, an oil or gas developer or operator, or any agent thereof, shall provide the lessor with a copy of this Part and a publication produced by the Consumer Protection Division of the North Carolina Department of Justice entitled "Oil & Gas Leases: Landowners' Rights." If the lessor is not the surface owner of the property, the oil or gas developer or operator shall also provide the surface owner with a copy of this Part and the publication prior to execution of a lease for oil and gas rights.

(b) Maximum Duration. – Any lease of oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property shall expire at the end of 10 years from the date the lease is executed, unless, at the end of the 10-year period, oil or gas is being produced for commercial purposes from the land to which the lease applies. If, at any time after the 10-year period, commercial production of oil or gas is terminated for a period of six months or more, all rights to the oil or gas shall revert to the surface owner of the property to which the lease pertains. No assignment or agreement to waive the provisions of this subsection shall be valid or enforceable. As used in this subsection, the term "production" includes the actual production of oil or gas by a lessee, or when activities are being conducted by the lessee for injection, withdrawal, storage, or disposal of water, gas, or other fluids, or when rentals or royalties are being paid by the lessee. No force majeure clause shall operate to extend a lease beyond the time frames set forth in this subsection.

(c) Minimum Royalty Payments. – Any lease of oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property shall provide that the lessor shall receive a royalty payment of not less than twelve and one-half percent (12.5%) of the proceeds of sale of all oil or gas produced from the lessor's just and equitable share of the oil and gas in the pool, which sum shall not be diminished by pre-production or post-production costs, fees, or other charges assessed by the oil or gas developer or operator against the property owner. Royalty payments shall commence no later than six months after the date of first sale of product from the drilling operations subject to the lease and thereafter no later than 60 days after the end of the calendar quarter within which

subsequent production is sold. At the time each royalty payment is made, the oil or gas developer or operator shall provide documentation to the lessor on the time period for which the royalty payment is made, the quantity of product sold within that period, and the price received, at a minimum. If royalty payments have not been made within the required time frames, the lessor shall be entitled to interest on the unpaid royalties commencing on the payment due date at the rate of twelve and one-half percent (12.5%) per annum on the unpaid amounts. Upon written request, the lessor shall be entitled to inspect and copy records of the oil or gas developer or operator related to production and royalty payments associated with the lease.

(d) Bonus Payments. – Any bonus payments, or other initial payments, due under a lease of oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property shall be paid by the lessee to the lessor within 60 days of execution of a lease. If a bonus payment or other initial payment has not been made within the required time frame, the lessor shall be entitled to interest on the unpaid amount commencing on the payment due date at the rate of ten percent (10%) per annum on the unpaid amount.

(e) Agreements for Use of Other Resources; Associated Payments. – Any lease of oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property shall clearly state whether the oil or gas developer or operator shall use groundwater or surface water supplies located on the property and, if so, shall clearly state the estimated amount of water to be withdrawn from the supplies on the property, and shall require permission of the surface owner therefore. At a minimum, water used by the developer or operator shall not restrict the supply of water for domestic uses by the surface owner. The lease shall provide for full compensation to the surface owner for water used from the property by the developer or operator in an amount not less than the fair market value of the water consumed based on water sales in the area at the time of use.

(f) Pre-Drilling Testing of Water Supplies. – Any lease of oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property shall include a clause that requires the oil or gas developer or operator to conduct a test of all water supplies within 5,000 feet from a wellhead that is part of the oil or gas developer's or operator's activities at least 30 days prior to initial drilling activities and at least two follow-up tests within a 24-month period after production has commenced. The Department shall identify the location of all water supplies, including wells, on a property on which drilling operations are proposed to occur. A surface owner may elect to have the Department sample wells located on their property, in lieu of sampling conducted by the oil or gas developer or operator, in which case the developer or operator shall reimburse the Department for the reasonable costs involved in testing of the wells in question. Nothing in this subsection shall be construed to preclude or impair the right of any surface owner to refuse pre-drilling testing of wells located on their property.

(g) Recordation of Leases. – Any lease of oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property, including assignments of such leases, shall be recorded within 30 days of execution in the register of deeds office in the county that the land that is subject to the lease is located.

(h) Notice of Assignment Required. – Written notice of assignment of any lease of oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property shall be provided to the lessor within 30 days of such assignment. If the surface owner of the property is not the lessor, written notice of assignment of any lease of oil or gas rights shall also be given to the surface owner of the property to which the lease pertains within 30 days of such assignment.

(i) Lender Approval of Lease. – Any lease for oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property with a surface owner shall include a conspicuous boldface disclosure concerning notification to lenders, which shall be initialed by the surface owner, and state the following:

NOTICE TO LENDER(S) PRIOR TO EXECUTION OF LEASE:

Surface owners are advised to secure written approval from any lender who holds a mortgage or deed of trust on any portion of the surface property involved in the lease prior to execution of the lease and obtain written confirmation that execution of the lease will not violate any provision associated with any applicable mortgage or deed of trust, which could potentially result in foreclosure.

I have read and understood the terms of this provision.

Surface Owner's Initials

(j) Three-Day Right of Rescission. – Any lease of oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property shall be subject to a three-day right of rescission in which the lessor or lessee may cancel the lease. A bold and conspicuous notice of this right of rescission shall be included in all such leases. In order to cancel the lease, the lessor or lessee shall notify the other party in writing within three business days of execution of the lease, and the lessor shall return any sums paid by the lessee to the lessor under the terms of the lease."

SECTION 4.(e) Part 3 of Article 27 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-423.1. Surface activities.

(a) Agreements on Rights and Obligations of Parties. – The developer or operator and the surface owner may enter into a mutually acceptable agreement that sets forth the rights and obligations of the parties with respect to the surface activities conducted by the developer or operator.

(b) Minimization of Intrusion Required. – An oil or gas developer or operator shall conduct oil and gas operations in a manner that accommodates the surface owner by minimizing intrusion upon and damage to the surface of the land. As used in this subsection, "minimizing intrusion upon and damage to the surface" means selecting alternative locations for wells, roads, pipelines, or production facilities, or employing alternative means of operation that prevent, reduce, or mitigate the impacts of the oil and gas operations on the surface, where such alternatives are technologically sound, economically practicable, and reasonably available to the operator. The standard of conduct set forth in this subsection shall not be construed to (i) prevent an operator from entering upon and using that amount of the surface as is reasonable and necessary to explore for, develop, and produce oil and gas and (ii) abrogate or impair a contractual provision binding on the parties that expressly provides for the use of the surface for the conduct of oil and gas operations or that releases the operator from liability for the use of the surface. Failure of an oil or gas developer or operator to comply with the requirements of this subsection shall give rise to a cause of action by the surface owner. Upon a determination by the trier of fact that such failure has occurred, a surface owner may seek compensatory damages and equitable relief. In any litigation or arbitration based upon this subsection, the surface owner shall present evidence that the developer's or operator's use of the surface materially interfered with the surface owner's use of the surface of the land. After such showing, the developer or operator shall bear the burden of proof of showing that it minimized intrusion upon and damage to the surface of the land in accordance with the provisions of this subsection. If a developer or operator makes that showing, the surface owner may present rebuttal evidence. A developer or operator may assert, as an affirmative defense, that it has conducted oil or gas operations in accordance with a regulatory requirement, contractual obligation, or land-use plan provision that is specifically applicable to the alleged intrusion or damage. Nothing in this subsection shall do any of the following:

- (1) Preclude or impair any person from obtaining any and all other remedies allowed by law.
- (2) Prevent a developer or operator and a surface owner from addressing the use of the surface for oil and gas operations in a lease, surface use agreement, or other written contract.
- (3) Establish, alter, impair, or negate the authority of local governments to regulate land use related to oil and gas operations."

SECTION 4.(f) G.S. 113-424 is repealed.

SECTION 4.(g) Part 3 of Article 27 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-425. Registry of landmen required.

(a) Establishment of Registry. – The Department of Environment and Natural Resources, in consultation with the Consumer Protection Division of the North Carolina Department of Justice, shall establish and maintain a registry of landmen operating in this State. As used in this section, "landman" means a person that, in the course and scope of the person's business, does any of the following:

- (1) Acquires or manages oil or gas interests.
- (2) Performs title or contract functions related to the exploration, exploitation, or disposition of oil or gas interests.
- (3) Negotiates for the acquisition or divestiture of oil or gas rights, including the acquisition or divestiture of land or oil or gas rights for a pipeline.
- (4) Negotiates business agreements that provide for the exploration for or development of oil or gas.

(b) Registration Required. – A person may not act, offer to act, or hold oneself out as a landman in this State unless the person is registered with the Department in accordance with this section. To apply for registration as a landman, a person shall submit an application to the Department on a form to be provided by the Department, which shall include, at a minimum, all of the following information:

- (1) The name of the applicant or, if the applicant is not an individual, the names and addresses of all principals of the applicant.
- (2) The business address, telephone number, and electronic mail address of the applicant.
- (3) The social security number of the applicant or, if the applicant is not an individual, the federal employer identification number of the applicant.
- (4) A list of all states and other jurisdictions in which the applicant holds or has held a similar registration or license.
- (5) A list of all states and other jurisdictions in which the applicant has had a similar registration or license suspended or revoked.
- (6) A statement whether any pending judgments or tax liens exist against the applicant.

(c) The Department may deny registration to an applicant, reprimand a registrant, suspend or revoke a registration, or impose a civil penalty on a registrant if the Department determines that the applicant or registrant does any of the following:

- (1) Fraudulently or deceptively obtains, or attempts to obtain, a registration.
- (2) Uses or attempts to use an expired, suspended, or revoked registration.
- (3) Falsely represents oneself as a registered landman.
- (4) Engages in any other fraud, deception, misrepresentation, or knowing omission of material facts related to oil or gas interests.
- (5) Had a similar registration or license denied, suspended, or revoked in another state or jurisdiction.
- (6) Otherwise violates this section.

(d) An applicant may challenge a denial, suspension, or revocation of a registration or a reprimand issued pursuant to subsection (c) of this section, as provided in Chapter 150B of the General Statutes.

(e) The Department shall adopt rules as necessary to implement the provisions of this section."

SECTION 4.(h) Part 3 of Article 27 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-426. Publication of information for landowners.

In order to effect the pre-lease publication distribution requirement as set forth in G.S. 113-423(a), and to otherwise inform the public, the Consumer Protection Division of the North Carolina Department of Justice, in consultation with the North Carolina Real Estate Commission, shall develop and make available a publication entitled "Oil & Gas Leases: Landowners' Rights" to provide general information on consumer protection issues and landowner rights, including information on leases of oil or gas rights, applicable to exploration and extraction of gas or oil. The Division and the Commission shall update the publication as necessary."

SECTION 4.(i) Part 3 of Article 27 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-427. Additional remedies.

The remedies provided by this Part are not exclusive and do not preclude any other remedies that may be allowed by law."

SECTION 5. G.S. 47E-4 reads as rewritten:

"§ 47E-4. Required disclosures.

(a) With regard to transfers described in G.S. 47E-1, the owner of the real property shall furnish to a purchaser a residential property disclosure statement. The disclosure statement shall:

- (1) Disclose those items which are required to be disclosed relative to the characteristics and condition of the property and of which the owner has actual knowledge; or
- (2) State that the owner makes no representations as to the characteristics and condition of the real property or any improvements to the real property except as otherwise provided in the real estate contract.

(b) The North Carolina Real Estate Commission shall develop and require the use of a standard disclosure statement to comply with the requirements of this section. The disclosure statement shall specify that certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling, and shall include at least the following characteristics and conditions of the property:

- (1) The water supply and sanitary sewage disposal system;
- (2) The roof, chimneys, floors, foundation, basement, and other structural components and any modifications of these structural components;
- (3) The plumbing, electrical, heating, cooling, and other mechanical systems;
- (4) Present infestation of wood-destroying insects or organisms or past infestation the damage for which has not been repaired;
- (5) The zoning laws, restrictive covenants, building codes, and other land-use restrictions affecting the real property, any encroachment of the real property from or to adjacent real property, and notice from any governmental agency affecting this real property; and
- (6) Presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material (whether buried or covered), and other environmental contamination.

The disclosure statement shall provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics or conditions, or the owner is making no representations as to any characteristic or condition.

(b1) With regard to transfers described in G.S. 47E-1, the owner of the real property shall furnish to a purchaser an owners' association and mandatory covenants disclosure statement.

- (1) The North Carolina Real Estate Commission shall develop and require the use of a standard disclosure statement to comply with the requirements of this subsection. The disclosure statement shall specify that certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling. The standard disclosure statement shall require disclosure of whether or not the property to be conveyed is subject to regulation by one or more owners' association(s) and governing documents which impose various mandatory covenants, conditions, and restrictions upon the property, including, but not limited to, obligations to pay regular assessments or dues and special assessments. The statement required by this subsection shall include information on all of the following:
 - a. The name, address, telephone number, or e-mail address for the president or manager of the association to which the lot is subject.
 - b. The amount of any regular assessments or dues to which the lot is subject.
 - c. Whether there are any services that are paid for by regular assessments or dues to which the lot is subject.
 - d. Whether, as of the date the disclosure is signed, there are any assessments, dues, fees, or special assessments which have been duly approved as required by the applicable declaration or bylaws, payable to an association to which the lot is subject.
 - e. Whether, as of the date the disclosure is signed, there are any unsatisfied judgments against or pending lawsuits involving the lot, the planned community or the association to which the lot is subject, with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the lot to be sold.
 - f. Any fees charged by an association or management company to which the lot is subject in connection with the conveyance or transfer of the lot to a new owner.
- (2) The owners' association and mandatory covenants disclosure statement shall provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics, or conditions or the owner is making no representations as to any characteristic or condition contained in the statement.

(b2) With regard to transfers described in G.S. 47E-1, the owner of the real property shall include in any real estate contract, an oil and gas rights mandatory disclosure as provided in this subsection.

- (1) Transfers of residential property set forth in G.S. 47E-2 are excluded from this requirement, except that the exemptions provided under subdivisions (9) and (11) of G.S. 47E-2 specifically are not excluded from this requirement.
- (2) The disclosure shall be conspicuous, shall be in boldface type, and shall be as follows:

OIL AND GAS RIGHTS DISCLOSURE

Oil and gas rights can be severed from the title to real property by conveyance (deed) of the oil and gas rights from the owner or by reservation of the oil and gas rights by the owner. If oil and gas rights are or will be severed from the property, the owner of those rights may have the perpetual right to drill, mine, explore, and remove any of the subsurface oil or gas resources on or from the property either directly from the surface of the property or from a nearby location. With regard to the severance of oil and gas rights, Seller makes the following disclosures:

		<u>Yes</u>	<u>No</u>	<u>No Representation</u>
<u>Buyer Initials</u>	1. <u>Oil and gas rights were severed from the property by a previous owner.</u>	—	—	—
<u>Buyer Initials</u>	2. <u>Seller has severed the oil and gas rights from the property.</u>	—	—	
<u>Buyer Initials</u>	3. <u>Seller intends to sever the oil and gas rights from the property prior to transfer of title to Buyer.</u>	—	—	

PART VI. CREATE ENERGY POLICY OVERSIGHT COMMISSION

SECTION 6.(a) Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 33.

"Joint Legislative Commission on Energy Policy.

"§ 120-285. Creation and membership of Joint Legislative Commission on Energy Policy.

- (a) The Joint Legislative Commission on Energy Policy is established.
- (b) The Commission shall consist of 10 members as follows:
 - (1) Five members of the Senate appointed by the President Pro Tempore of the Senate, at least one of whom is a member of the minority party.
 - (2) Five members of the House of Representatives appointed by the Speaker of the House of Representatives, at least one of whom is a member of the minority party.
- (c) Terms on the Commission are for two years and begin on the convening of the General Assembly in each odd-numbered year. Members may complete a term of service on the Commission 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 Commission. A member continues to serve until the member's successor is appointed.

"§ 120-286. Purpose and powers and duties of Commission.

- (a) The Joint Legislative Commission on Energy Policy shall exercise legislative oversight over energy policy in the State. In the exercise of this oversight, the Commission may do any of the following:
 - (1) Monitor and evaluate the programs, policies, and actions of the Mining and Energy Commission established pursuant to G.S. 143B-293.1, the Energy Policy Council established pursuant to G.S. 113B-2, the Energy Division in the Department of Commerce, the Utilities Commission and Public Staff established pursuant to Chapter 62 of the General Statutes, and of any other board, commission, department, or agency of the State or local government with jurisdiction over energy policy in the State.

- (2) Review and evaluate existing and proposed State statutes and rules affecting energy policy and determine whether any modification of these statutes or rules is in the public interest.
- (3) Monitor changes in federal law and court decisions affecting energy policy.
- (4) Monitor and evaluate energy-related industries in the State and study measures to promote these industries.
- (5) Study any other matters related to energy policy that the Commission considers necessary to fulfill its mandate.

(b) The Commission may make reports and recommendations, including proposed legislation, to the General Assembly from time to time as to any matter relating to its oversight and the powers and duties set out in this section.

"§ 120-287. Organization of Commission.

(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 Commission on Energy Policy. The Commission may meet at any time upon the call of either cochair, whether or not the General Assembly is in session.

(b) A quorum of the Commission is six members.

(c) While in the discharge of its official duties, the Commission has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for consultants or hire employees in accordance with G.S. 120-32.02.

(d) From funds available to the General Assembly, the Legislative Services Commission shall allocate monies to fund the Joint Legislative Commission on Energy Policy. Members of the Commission receive subsistence and travel expenses as provided in G.S. 120-3.1. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission 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 Commission. The expenses for clerical employees shall be borne by the Commission."

SECTION 6.(b) Notwithstanding G.S. 120-285(c), as enacted by Section 6(a) of this act, the President Pro Tempore of the Senate and the Speaker of the House of Representatives may appoint members to the Joint Legislative Commission on Energy Policy to terms that begin prior to the convening of the 2013 General Assembly. The terms of members appointed pursuant to this section shall end upon the convening of the 2013 General Assembly. Members appointed pursuant to this section who are otherwise qualified to serve on the Commission may be reappointed to the Commission upon the convening of the 2013 General Assembly.

PART VII. EFFECTIVE DATE

SECTION 7. Sections 4(a) through 4(f), 4(h), and 4(i) of this act are effective when this act becomes law and apply to wells drilled and leases or contracts entered into on or after that date. Sections 1(a) through 1(h), Sections 2(a) through 2(n), Sections 3(a) through 3(d), and Sections 6(a) and 6(b) of this act become effective August 1, 2012. Section 4(g) and Section 5 become effective October 1, 2012, and Section 5 applies to real estate transfers or dispositions occurring on or after that date. All other sections of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Became law notwithstanding the objections of the Governor at 11:04 p.m. this 2nd day of July, 2012.

Session Law 2012-144

H.B. 1215

AN ACT TO AUTHORIZE THE HENDERSON COUNTY BOARD OF COMMISSIONERS TO LEVY AN ADDITIONAL ONE PERCENT ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5 of Chapter 172 of the 1987 Session Laws, as amended by Chapter 55 of the 1991 Session Laws and by Section 21(p) of S.L. 2007-527, reads as rewritten:

"**Sec. 5.** Occupancy Tax. (a) Authorization and Scope. = The Board of Commissioners of Henderson County 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 of no less than three percent (3%) nor more than five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under ~~G.S. 105-164.4(3);~~ G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Board of Commissioners of Henderson County may levy a room occupancy and tourism development tax of one percent (1%) 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 section. Henderson County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 20th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay an additional tax, as a penalty, of one percent (1%) of the tax due for each day's omission up to 30 days, with a minimum penalty of twenty five dollars (\$25.00). 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 ten percent (10%) of the tax and penalty due in addition to any other penalty, with an additional tax of ten percent (10%) for each additional month or fraction thereof until~~

~~the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the tax penalties imposed by this subsection.~~

~~Any person who willfully attempts in any manner to evade a tax or penalty imposed under this act or who willfully fails to pay the tax or penalty or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.~~

~~(e) Use of Tax Revenue. – The county shall, on a quarterly basis, remit the net proceeds of the room occupancy and tourism development tax levied under this act to the Henderson County Tourism Development Authority. The Authority shall use the net proceeds as follows:~~

- ~~(1) First five percent (5%). – At least two-thirds of the net proceeds of the room occupancy tax levied under subsection (a) of this section shall be used to promote travel and tourism in Henderson County and the remainder shall be used for tourism-related expenditures.~~
- ~~(2) Additional one percent (1%). – The net proceeds of the additional one percent room occupancy tax levied under subsection (a1) of this section shall be used for the maintenance, operation, renovation, and promotion of The Vagabond School of the Drama, Inc., including the Mainstage and the Playhouse Downtown locations.~~

~~(e1) Definitions. – The following definitions apply in this act:~~

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

~~shall place the net proceeds collected from a tax levied under this act in a special Travel and Tourism Fund. Revenue in this fund may be used only to promote travel and tourism in the county. This fund will be administered by the Henderson Travel and Tourism Committee. As used in this subsection, "net proceeds" means gross proceeds less five percent (5%) of the gross proceeds which the county may retain to defray the cost of administering and collecting the tax.~~

~~The scope of promotion of travel and tourism in the county may include the following:~~

- ~~(1) Contracting with any person, firm, or agency to advise and assist in travel and tourism promotion.~~
- ~~(2) Advertising via appropriate media.~~
- ~~(3) Assisting in the initial funding and possible annual subsidy of a fine arts center or other similar facility which could logically be expected to promote tourism in the county.~~
- ~~(4) Promoting special events which would bring tourists to the county.~~

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

(g) ~~Repeal. A tax levied under this act may be repealed by a resolution adopted by the board of commissioners of the county. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~"

SECTION 2.(a) Section 6 of Chapter 172 of the 1987 Session Laws, as amended by Chapter 55 of the 1991 Session Laws and by Section 21(p) of S.L. 2007-527, reads as rewritten:

"Sec. 6. Henderson ~~Travel and Tourism Committee.~~ 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 the Henderson ~~Travel and Tourism Committee,~~ Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution adopted by the Board of Commissioners shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. However, no member shall serve on the Authority for more than five consecutive years. The Committee shall consist of nine voting members as follows:

- (1) ~~Four~~ Three members who are registered to vote in Henderson County, appointed by the Henderson County Board of ~~Commissioners;~~ Commissioners.
- (2) ~~Four~~ Three members who are registered to vote in Henderson County, appointed by the Hendersonville City ~~Council;~~ and Council.
- (3) ~~The President of the Greater Hendersonville Chamber of Commerce, or his designee, to serve ex officio.~~ One member who is registered to vote in Henderson County, appointed by the Fletcher Town Council.
- (4) One member who is registered to vote in Henderson County, appointed by the Flat Rock Village Council.
- (5) One member appointed by the Henderson County Board of Commissioners upon a recommendation of the Henderson County Chamber of Commerce.

Of these members, at least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall 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 ~~Committee~~ Authority as chair and shall determine the compensation, if any, to be paid to members of the ~~Committee.~~ Authority. The ~~Committee~~ Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for Henderson County shall be the ex officio finance officer of the ~~Committee.~~ Authority. ~~The Committee shall administer the Travel and Tourism Fund as provided in Section 1(e) of this act.~~

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under subsections (a) and (a1) of Section 5 of this act for the purposes provided in Section 5 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.

(c) Reports. – The ~~Committee~~ 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. The Vagabond School of the Drama, Inc., shall separately identify in its financial statements expenditures of funds that it receives pursuant to this act. The Vagabond School of the Drama, Inc., shall report annually by October 1 to the Authority expenditures of the funds received during the Authority's fiscal year pursuant to this act in such detail as required by the Authority or the Authority's Finance Officer."

SECTION 2.(b) This section is effective when it becomes law, and the board of county commissioners shall adopt a resolution establishing the Henderson Tourism Development Authority and make the changes to the membership as required by this section on or before September 1, 2012.

SECTION 3.(a) Subsection (e) of Section 5 of Chapter 172 of the 1987 Session Laws, as amended by Chapter 55 of the 1991 Session Laws, by Section 21(p) of S.L. 2007-527, and by Section 1(a) of this act, reads as rewritten:

"(e) Use of Tax Revenue. – The county shall, on a quarterly basis, remit the net proceeds of the room occupancy and tourism development tax levied under this act to the Henderson County Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it to promote travel and tourism in Henderson County and shall use the remainder for tourism-related expenditures. ~~The Authority shall use the net proceeds as follows:~~

- (1) ~~First five percent (5%).—At least two thirds of the net proceeds of the room occupancy tax levied under subsection (a) of this section shall be used to promote travel and tourism in Henderson County and the remainder shall be used for tourism-related expenditures.~~
- (2) ~~Additional one percent (1%).—The net proceeds of the additional one percent room occupancy tax levied under subsection (a1) of this section shall be used for the maintenance, operation, renovation, and promotion of The Vagabond School of the Drama, Inc., including the Mainstage and the Playhouse Downtown locations."~~

SECTION 3.(b) This section becomes effective July 1, 2014, and applies to room occupancy taxes collected on or after that date.

SECTION 4. G.S. 153A-155(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Henderson, Jackson, Madison, Martin, McDowell, Montgomery, Moore, Nash, New Hanover, New Hanover County District U, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to Surry County District S, to Watauga County District U, to Wilkes County District K, to Yadkin County District Y, and to the Township of Averagesboro in Harnett County and the Ocracoke Township Taxing District."

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.
Became law on the date it was ratified.

Session Law 2012-145

S.B. 187

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND OTHER MODIFICATIONS TO THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACTS.

The General Assembly of North Carolina enacts:

PART I. GENERAL PROVISIONS

SECTION 1.1. Section 2.1 of S.L. 2012-142 reads as rewritten:

"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, 2013, according to the schedule that follows. Amounts set out in parentheses are reductions from General Fund appropriations for the 2012-2013 fiscal year.

Current Operations – General Fund	2012-2013
EDUCATION	
Community Colleges System Office	\$ 5,165,000
Department of Public Instruction	62,430,967
University of North Carolina – Board of Governors	
Appalachian State University	573,876
East Carolina University	
Academic Affairs	4,447,287
Health Affairs	0
Elizabeth City State University	0
Fayetteville State University	473,656
NC A&T State University	0
NC Central University	0
NC State University	
Academic Affairs	3,346,252
Agricultural Research	0
Agricultural Extension	0
UNC-Asheville	0
UNC-Chapel Hill	
Academic Affairs	0
Health Affairs	0
AHEC	<u>015,000,000</u>
UNC-Charlotte	0
UNC-Greensboro	103,534
UNC-Pembroke	0
UNC-School of the Arts	0
UNC-Wilmington	434,038
Western Carolina University	0
Winston-Salem State University	0
General Administration	9,808,141
University Institution Programs	15,560,828
Related Educational Programs	(12,139,141)
UNC Financial Aid Private Colleges	4,500,000
NC School of Science & Math	0
UNC Hospitals	<u>(3,000,000)(18,000,000)</u>
Total University of North Carolina – Board of Governors	\$ 24,108,471

HEALTH AND HUMAN SERVICES

Department of Health and Human Services	
Division of Central Management and Support	\$ 1,307,641
Division of Aging and Adult Services	50,000,000
Division of Services for Blind/Deaf/Hard of Hearing	(168,336)
Division of Child Development	(3,500,000)
Division of Health Service Regulation	1,792,559
Division of Medical Assistance	194,172,266
Division of Mental Health, Dev. Disabilities and Sub. Abuse	(15,196,981)
NC Health Choice	(2,007,430)
Division of Public Health	11,384,778
Division of Social Services	(9,079,116)
Division of Vocational Rehabilitation	0
Total Health and Human Services	\$ 228,705,381

NATURAL AND ECONOMIC RESOURCES

Department of Agriculture and Consumer Services	\$ 47,362,832
Department of Commerce	
Commerce	7,471,362
Commerce State-Aid	(1,217,540) (217,540)
NC Biotechnology Center	(351,034)
Rural Economic Development Center	(3,757,535) (1,757,535)
Department of Environment and Natural Resources	(39,339,288)
DENR Clean Water Management Trust Fund	(500,000)
Department of Labor	(316,738)
Wildlife Resources Commission	434,397

JUSTICE AND PUBLIC SAFETY

Department of Public Safety	\$ (32,231,135)
Judicial Department	(2,334,307)
Judicial Department – Indigent Defense	0
Department of Justice	(6,667,504)

GENERAL GOVERNMENT

Department of Administration	\$ (24,861)
Department of State Auditor	(213,521)
Office of State Controller	1,580,412
Department of Cultural Resources	
Cultural Resources	(298,866)

Roanoke Island Commission	(300,000)
State Board of Elections	(102,532)
General Assembly	1,570,422
Office of the Governor	
Office of the Governor	(94,823)
Office of State Budget and Management	(116,973)
OSBM – Reserve for Special Appropriations	1,438,388
Housing Finance Agency	(8,064,634)
Department of Insurance	
Insurance	459,055
Insurance – Volunteer Safety Workers' Compensation	0
Office of Lieutenant Governor	(144,150)
Office of Administrative Hearings	0
Department of Revenue	(1,563,991)
Department of Secretary of State	766,661
Department of State Treasurer	
State Treasurer	0
State Treasurer – Retirement for Fire and Rescue Squad Workers	0

RESERVES, ADJUSTMENTS AND DEBT SERVICE

Information Technology Fund	\$	(750,000)
Reserve for Job Development Investment Grants (JDIG)		(6,500,000)
Judicial Retirement System Contribution		100,000
Continuation/Justification Review Reserve		(35,576,758)
Compensation and Performance Pay Reserve		(121,105,840)
Reserve for Compensation Increases and Personnel Flexibility		159,984,426
Disability Income Plan Rate Reduction		(8,688,000)
One North Carolina Fund		9,000,000
Reserve for VIPER		10,000,000
Debt Service		
General Debt Service		(52,904,635)

TOTAL CURRENT OPERATIONS – GENERAL FUND \$ 237,413,109 240,413,109

SECTION 1.1A.(a) Section 2.2(a) of S.L. 2012-142 reads as rewritten:

"GENERAL FUND AVAILABILITY STATEMENT

"SECTION 2.2.(a) Section 2.2(a) of S.L. 2011-145, as amended by Section 2(b) of S.L. 2011-391 and Section 5(a) of S.L. 2011-395, is repealed. The General Fund availability used in adjusting the 2012-2013 budget is shown below:

		FY 2012-2013
Unappropriated Balance Remaining	\$	41,232,325
Anticipated Overcollections from FY 2011-2012		232,500,000

Anticipated Reversions for FY 2011-2012	205,500,000	206,873,330
Net Supplemental Medicaid Appropriation (S.L. 2012-2)		(154,000,000)
Less Earmarkings of Year-End Fund Balance		
Savings Reserve Account		(123,170,924)
Repairs and Renovations Reserve Account		(23,170,924)
Beginning Unreserved Fund Balance	\$	
<u>178,890,477</u>		<u>180,263,807</u>
Revenue Based on Existing Tax Structure		18,931,200,000
Nontax Revenue		
Investment Income		21,600,000
Judicial Fees		258,700,000
Disproportionate Share		115,000,000
Insurance		73,700,000
Other Nontax Revenues		304,400,000
Highway Trust Fund Transfer		27,600,000
Highway Fund Transfer		212,280,000
Total – Nontax Revenues		1,013,280,000
Subtotal General Fund Availability	<u>20,123,370,477</u>	<u>20,124,743,807</u>
Adjustments to Availability: 2012 Session		
E-Commerce Reserve Cash Balance		2,470,642
One North Carolina Fund Cash Balance		45,000,000
Sale of State Assets Receipt		(25,000,000)
Information Technology Internal Service Fund Cash Balance		14,000,000
National Mortgage Settlement		9,610,000
Highway Fund Transfer – Technical Adjustment		8,000,000
Work Opportunity Tax Credit Extension (HB 1015 Reserve)		(800,000)
Tax Deduction for Educational Supplies (HB 1015 Reserve)		(1,800,000)
Sales Tax Refund Application for		
Passenger Air Carriers (HB 1015 Reserve)		(3,150,000)
Insurance Regulatory Fund		166,613
Teaching Fellows Trust Fund Cash Balance		3,265,000
Diversion of Golden L.E.A.F. Funds		<u>3,750,000</u>
Charitable Licensing Receipts	979,752	
Subtotal Adjustments to Availability:		<u>56,492,007</u>
Revised Total General Fund Availability	<u>20,179,862,484</u>	<u>20,184,235,814</u>
Less General Fund Appropriations		<u>20,179,862,484</u>

Balance Remaining**0"**

SECTION 1.1A.(b). Section 2.2(e) of S.L. 2011-145, as amended by Section 2.2(h) of S.L. 2012-142, reads as rewritten:

"SECTION 2.2.(e) Of the 2011-2012 and the 2012-2013 annual installment payments to the North Carolina State Specific Account that would have been transferred to The Golden L.E.A.F. (Long-Term Economic Advancement Foundation), Inc., pursuant to Section 2(b) of S.L. 1999-2, seventeen million five hundred sixty-three thousand seven hundred sixty dollars (\$17,563,760) for the 2011-2012 fiscal year and ~~twenty-one million five hundred sixty-three thousand seven hundred sixty dollars (\$21,563,760)~~ twenty-four million three hundred thirteen

thousand seven hundred sixty dollars (\$24,313,760) for the 2012-2013 fiscal year is transferred to the General Fund."

SECTION 1.2. S.L. 2012-142 is amended by adding a new section to read:

"EXEMPTIONS FROM MANAGEMENT FLEXIBILITY REDUCTIONS

"SECTION 6.15. Notwithstanding the provisions of Section 6.14 of this act and G.S. 143C-6-4, and unless otherwise specifically directed in this act or in S.L. 2011-145, additional funds appropriated for the 2012-2013 fiscal year to State agencies as defined by G.S. 143C-1-1(d)(24) shall not be used to offset management flexibility adjustments enacted in this act or in S.L. 2011-145."

LOTTERY FUNDS

SECTION 1.3 Section 5.3(d) of S.L. 2012-142 reads as rewritten:

"SECTION 5.3.(d) Notwithstanding G.S. 18C-164(f) or any other provision of law, excess lottery receipts realized in the 2011-2012 fiscal year in the amount of ~~twenty five million five hundred eighty eight thousand three hundred seventy dollars (\$25,588,370)~~ thirty-two million one hundred thirty-three thousand six hundred forty-one dollars (\$32,133,641) shall be allocated for UNC Need-Based Financial Aid."

PART II. EDUCATION

SECTION 2.1. S.L. 2012-142 is amended by adding a new section to read:

"AUTHORITY TO ESTABLISH POSITIONS TO ADMINISTER THE EXCELLENT PUBLIC SCHOOLS ACT

"SECTION 7A.12. The Department of Public Instruction may establish 11 positions to administer the provisions of Section 7A.1 of this act."

SECTION 2.2. S.L. 2012-142 is amended by adding a new section to read:

"FUNDING FOR BOWLES CENTER FOR ALCOHOL STUDIES

"SECTION 9.16. G.S. 20-7(i1) reads as rewritten:

"(i1) Restoration Fee. – Any person whose drivers license has been revoked pursuant to the provisions of this Chapter, other than G.S. 20-17(a)(2) shall pay a restoration fee of fifty dollars (\$50.00). A person whose drivers license has been revoked under G.S. 20-17(a)(2) shall pay a restoration fee of one hundred dollars (\$100.00). The fee shall be paid to the Division prior to the issuance to such person of a new drivers license or the restoration of the drivers license. The restoration fee shall be paid to the Division in addition to any and all fees which may be provided by law. This restoration fee shall not be required from any licensee whose license was revoked or voluntarily surrendered for medical or health reasons whether or not a medical evaluation was conducted pursuant to this Chapter. The fifty-dollar (\$50.00) fee, and the first fifty dollars (\$50.00) of the one-hundred-dollar (\$100.00) fee, shall be deposited in the Highway Fund. Twenty-five dollars (\$25.00) of the one-hundred-dollar (\$100.00) fee shall be used to fund a statewide chemical alcohol testing program administered by the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services. The remainder of the one-hundred-dollar (\$100.00) fee shall be deposited in the General Fund. The Office of State Budget and Management shall annually report to the General Assembly the amount of fees deposited in the General Fund and transferred to the Forensic Tests for Alcohol Branch of the Chronic Disease and Injury Section of the Department of Health and Human Services under this subsection.

~~It is the intent of the General Assembly to annually appropriate~~ Effective with the 2011-2012 fiscal year, from the funds deposited in the General Fund under this subsection the sum of five hundred thirty-seven thousand four hundred fifty-five dollars (\$537,455) shall be transferred annually to the Board of Governors of The University of North Carolina to be used for the operating expenses of the Bowles Center for Alcohol Studies at The University of North Carolina at Chapel Hill."

SECTION 2.3. S.L. 2012-142 is amended by adding a new section to read:

"FUNDING FOR UNC MEDICAL SCHOOL

"SECTION 9.17.(a) Notwithstanding any provision of law to the contrary, of the funds appropriated by this act for the 2012-2013 fiscal year to the Board of Governors of The University of North Carolina the sum of forty-four million eleven thousand eight hundred eighty-two dollars (\$44,011,882) in recurring funds, the recurring reduction of those funds in the amount of three million dollars (\$3,000,000), and the nonrecurring reduction of those funds in the amount of twenty-six million eleven thousand eight hundred eighty-two dollars (\$26,011,882) shall be transferred from the UNC Hospitals Budget Code 16095 to the UNC School of Medicine Budget Code 16021 and shall be used for medical education. The transfer of the appropriation of the sum of forty-four million eleven thousand eight hundred eighty-two dollars (\$44,011,882) in recurring funds and the transfer of the recurring reduction of those funds in the amount of three million dollars (\$3,000,000) shall be a permanent transfer of appropriation and reduction in funds from the UNC Hospitals Budget Code 16095 to the UNC School of Medicine Budget Code 16021 that shall be reflected in those budget codes for the 2012-2013 fiscal year and in the continuation budgets for those budget codes for each subsequent fiscal year."

SECTION 2.4.(a) Section 7.21(a) of S.L. 2011-145, as amended by Section 7.18 of S.L. 2012-142, reads as rewritten:

"SECTION 7.21.(a) For fiscal ~~years 2011-2012 and year~~ 2012-2013, the State Board of Education is authorized to extend its emergency rules, in accordance with G.S. 150B-21.1A, granting maximum flexibility to local school administrative units regarding the expenditure of State funds. These rules shall not be subject to the limitations on transfers of funds between funding allotment categories set out in G.S. 115C-105.25. However, these rules shall not permit the following transfers:

- (1) The transfer of funds into central office administration.
- (2) The transfer of funds from the classroom teachers allotment to any allotment other than teacher assistants allotment.
- (3) The transfer of funds from the teacher assistants allotment to any allotment other than the classroom teachers allotment.

For funds related to classroom teacher positions, the salary transferred shall be based on the ~~first step of step corresponding to six years of experience on~~ the "A" Teachers salary schedule.

SECTION 2.4.(a1) Section 7.18(b) of S.L. 2012-142 reads as rewritten:

"SECTION 7.18.(b) Local school administrative units may transfer funds for certified instructional support personnel for any purpose not otherwise prohibited by the State Board of Education's ABC transfer policy by submitting an ABC Transfer Form to the Department of Public Instruction. For funds related to certified instructional support personnel positions, the salary transferred shall be based on the ~~first step of step corresponding to six years of experience on~~ the "A" Teachers salary schedule. No local school administrative unit shall convert certified position allotments to dollars in order to hire the same type of position."

SECTION 2.4.(b) This section applies to the 2012-2013 fiscal year only. For subsequent fiscal years, it is the intent of the General Assembly to require that all transfers of teacher and instructional support personnel positions be based on step 0 of the "A" Teachers salary schedule.

SECTION 2.5. S.L. 2012-142 is amended by adding a new section to read:

"SCHOOL CALENDAR

"SECTION 7A.11.(a) G.S. 115C-84.2 reads as rewritten:

"§ 115C-84.2. School calendar.

(a) School Calendar. – Each local board of education shall adopt a school calendar consisting of 215 days all of which shall fall within the fiscal year. A school calendar shall include the following:

- (1) A minimum of 185 days ~~and or~~ 1,025 hours of instruction covering at least nine calendar months. The local board shall designate when the ~~185~~ instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have

to be uniform among the schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

...

~~If the State Board of Education finds that it will enhance student performance to do so, the State Board may grant a local board of education a waiver to use up to five of the instructional days required by subdivision (1) of this subsection as teacher workdays. For each instructional day waived, the State Board shall waive an equivalent number of instructional hours.~~

Local boards and individual schools are encouraged to use the calendar flexibility in order to meet the annual performance standards set by the State Board. Local boards of education shall consult with parents and the employed public school personnel in the development of the school calendar.

Local boards shall designate at least two days scheduled under subdivision (5) of this subsection as days on which teachers may take accumulated vacation leave. Local boards may designate the remaining days scheduled in subdivision (5) of this subsection as days on which teachers may take accumulated vacation leave, but local boards shall give teachers at least 14 calendar days' notice before requiring a teacher to work instead of taking vacation leave on any of these days. A teacher may elect to waive this notice requirement for one or more of these days.

...

(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. Except for year-round schools, the opening date for students shall ~~not be before August 25, be no earlier than the Monday closest to August 26,~~ and the closing date for students shall ~~not be after June 10, be no later than the Friday closest to June 11.~~ On a showing of good cause, the State Board of Education may waive ~~this requirement~~ the requirement that the opening date for students be no earlier than the Monday closest to August 26 and may allow the local board of education to set an opening date no earlier than the Monday closest to August 19, to the extent that school calendars are able to provide sufficient days to accommodate anticipated makeup days due to school closings. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. For purposes of this subsection, the term "good cause" means ~~either that~~ that schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations.

- ~~(1) Schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations; or~~
- ~~(2) Schools in any local school administrative unit in a county have been closed for all or part of eight days per year during any four of the last 10 years because of severe weather conditions. For purposes of this subdivision, a school shall be deemed to be closed for part of a day if it is closed for two or more hours.~~

~~The State Board also may waive this requirement for an educational purpose. The term "educational purpose" means a local school administrative unit establishes a need to adopt a different calendar for (i) a specific school to accommodate a special program offered generally to the student body of that school, (ii) a school that primarily serves a special population of~~

~~students, or (iii) a defined program within a school. The State Board may grant the waiver for an educational purpose for that specific school or defined program to the extent that the State Board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening and closing dates set forth in this subsection. The waiver requests for educational purposes shall not be used to accommodate system-wide class scheduling preferences.~~

The required opening and closing dates under this subsection shall not apply to any school that a local board designated as having a modified calendar for the 2003-2004 school year or to any school that was part of a planned program in the 2003-2004 school year for a system of modified calendar schools, so long as the school operates under a modified calendar.

...."

"SECTION 7A.11.(b) G.S. 115C-238.29F(d)(1) reads as rewritten:

- "(1) The school shall provide instruction each year for at least 185 ~~days~~ days or 1,025 hours over nine calendar months. ~~If the State Board of Education finds that it will enhance student performance to do so, the State Board may grant a charter school a waiver to use up to five of these instructional days as teacher workdays.~~"

"SECTION 7A.11.(c) G.S. 115C-238.53(d) reads as rewritten:

"(d) A program approved under this Part shall provide instruction each school year for at least ~~180 days~~ 185 days or 1,025 instructional hours during nine calendar months, shall comply with laws and policies relating to the education of students with disabilities, and shall comply with Article 27 of this Chapter. The requirements of G.S. 115C-84.2 shall not apply to the school calendar of a program approved under this Part."

"SECTION 7A.11.(d) G.S. 115C-238.66(1)d. reads as rewritten:

- "d. The board of directors shall adopt a school calendar consisting of a minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months."

"SECTION 7A.11.(e) Notwithstanding the calendar requirements of G.S. 115C-84.2, a local board of education may adopt a calendar consisting of a minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months for certain schools within the local school administrative unit that meet all of the following requirements:

- (1) Are located in a local school administrative unit that borders another state and serves a minimum of 135,000 students.
- (2) Participate in a public-private partnership with private monetary investment in the school and local school administrative unit for the purpose of eliminating the educational gap and ensuring that all students graduate from high school prepared to succeed in college and life through a program that requires excellent principals and effective teachers, extended learning time opportunities, access to and effective use of technology, and community support through engaged parents, motivated mentors, and community connections.
- (3) Belong to a feeder pattern that also participate in the same public-private partnership and includes not more than nine schools.

State funding shall not be used by the local board of education to fund any instructional days in excess of 185 included in a school calendar adopted as provided in this section. Local and private funds may be used to fund additional instructional days in the school calendar. The requirements of G.S. 115C-84.2 shall not apply to a school calendar approved as provided in this section.

"SECTION 7A.11.(f) This section is effective when it becomes law and applies beginning with the 2013-2014 school year."

PART III. HEALTH AND HUMAN SERVICES

SECTION 3.1.(a) The portion of Section 10.25(a) of S.L. 2012-142 setting forth the allocation for County Departments of Social Services for Local Program Expenditures, Divisions of Social Services and Aging and Adult Services, under the Social Services Block Grant reads as rewritten:

"**SECTION 10.25.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

...

SOCIAL SERVICES BLOCK GRANT

Local Program Expenditures

Divisions of Social Services and Aging and Adult Services

01. County Departments of Social Services \$ ~~32,249,206~~ \$30,452,068
 (Transfer from TANF \$4,148,001)

...."

SECTION 3.1.(b) The portion of Section 10.25(a) of S.L. 2012-142 setting forth the allocation for Children's Health Services for Local Program Expenditures, Division of Public Health, under the Maternal and Child Health Block Grant reads as rewritten:

"**SECTION 10.25.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

...

MATERNAL AND CHILD HEALTH BLOCK GRANT

Local Program Expenditures

Division of Public Health

01. Children's Health Services \$ ~~8,487,547~~ \$ 8,569,465

...."

SECTION 3.1.(c) The portion of Section 10.25(a) of S.L. 2012-142 setting forth the allocation for HIV/STD Prevention and Community Planning for Local Program Expenditures, Division of Public Health, under the Preventive Health Services Block Grant reads as rewritten:

"**SECTION 10.25.(a)** Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2013, according to the following schedule:

...

PREVENTIVE HEALTH SERVICES BLOCK GRANT

Local Program Expenditures

Division of Public Health

01. HIV/STD Prevention and Community Planning 180,470
 (~~Transfer from Social Services Block Grant~~)

...."

SECTION 3.1.(d) Section 10.25(l) of S.L. 2012-142 reads as rewritten:

"**SECTION 10.25.(l)** The sum of ~~thirty two million two hundred forty nine thousand two hundred six dollars (\$32,249,206)~~ thirty million four hundred fifty-two thousand sixty-eight dollars (\$30,452,068) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2012-2013 fiscal year shall be used for County Block Grants. The Division shall certify these funds in the

appropriate State-level services based on prior year actual expenditures. The Division has the authority to realign the authorized budget for these funds among the State-level services based on current year actual expenditures."

SECTION 3.1.(e) Section 10.25 of S.L. 2012-142 is amended by adding a new subsection to read:

"SECTION 10.25.(r1) The sum of two million seven hundred twenty-eight thousand dollars (\$2,728,000) appropriated in this section in the Social Services Block Grant for the 2012-2013 fiscal year to the Department of Health and Human Services, Division of Public Health, shall be used for tobacco cessation and prevention. These funds are exempt from the provisions of 10A NCAC 71R .0201(3)."

SECTION 3.3. Section 10.9A of S.L. 2012-142 reads as rewritten:

"SECTION 10.9A.(a) ~~The State Auditor shall conduct a performance audit of the North Carolina Medicaid Program and the Division of Medical Assistance operated within the Department of Health and Human Services. The audit shall examine the program's effectiveness; results of the program; the utilization of outside vendor contracts, including the number, cost, and duration of such contracts; fiscal controls and Medicaid forecasting; and compliance with requirements of the Centers for Medicare and Medicaid Services and the requirements of State law.~~ audit the Department of Health and Human Services, Division of Medical Assistance, and the State Medicaid Program operated within the Department. The audit shall include the State Auditor's examination of at least all of the following:

- (1) The administrative functions and responsibilities of permanent Division staff.
- (2) The administrative functions that are performed either partially or entirely through contracts, cooperative agreements, Memorandums of Understanding (MOUs) with external entities, such as independent contractors, private vendors, universities, county governments, and other State or federal agencies. To identify these administrative functions, the State Auditor shall develop an inventory of all administrative contracts for purchased services, including a brief description of the scope of work, cost, and the period of performance for each contract.
- (3) The amount of funds, staff, and other resources dedicated to the performance of each administrative function of the Division.
- (4) The timeliness and compliance with State and federal mandates when carrying out the functions of the Division, including all of the following:
 - a. The production of accurate, multiyear projections of Medicaid recipient participation, consumption of services, and costs.
 - b. The oversight of the Medicaid program to ensure that program participation by Medicaid eligible recipients, consumption of services, and expenditures are within the budget authorized by the General Assembly for each fiscal year, including early detection of expenditure trends that indicate potential budget shortfalls.
 - c. The timeliness of preparing and submitting Medicaid State Plan amendments to obtain approval from the Centers for Medicare and Medicaid Services to comply with State and federal laws and regulations.
 - d. The collection, distribution, and maintenance of statistical data and other information on the Medicaid eligible population, eligible recipient participation, consumption of services, Medicaid patient health outcomes, provider participation and related issues, and costs.
 - e. The timeliness of distribution and the presentation of complete and accurate information with supportive documentation to the Secretary of the Department of Health and Human Services, the Governor's

Office, and the General Assembly regarding funding needs and policy issues.

"**SECTION 10.9A.(b)** The State Auditor shall give a preliminary report on the ~~performance~~ audit required by this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division by November 1, 2012, and shall complete the ~~performance~~ audit by February 1, 2013.

"**SECTION 10.9A.(c)** Of the funds appropriated to the Department of Health and Human Services, Division of Medical Assistance, from the General Fund for the 2012-2013 fiscal year to fund contracts, the Department shall transfer to the North Carolina Office of the State Auditor the amount of funds necessary to complete the ~~performance~~ audit required by this section."

SECTION 3.4. Section 10.11(a) of S.L. 2012-142 is amended by adding a new subdivision to read:

"(4) The impact of implementing the 1915(b)/(c) Medicaid waiver and other mental health system reforms on public guardianship services, including at least all of the following:

a. Guardianship roles, responsibilities, and procedures.

b. The effect on existing relationships between guardians and wards.

c. Recommended legislation to support the transition of public guardianship services from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services within the Department of Health and Human Services to county departments of social services."

SECTION 3.5. Section 10.9E(a) of S.L. 2012-142 reads as rewritten:

"**SECTION 10.9E.(a)** ~~The~~By September 15, 2012, the Department of Health and Human Services, Division of Medical Assistance, shall develop and submit to the Centers for Medicare and Medicaid Services an application for a home- and community-based services program under Medicaid State Plan 1915(i) authority for ~~elderly~~ individuals who (i) are typically served in special care and memory care units that meet the criteria of the State-County Special Assistance Program and (ii) have been diagnosed with a ~~progressive~~, degenerative, irreversible disease that attacks the brain and results in impaired memory, thinking, and behavior. The home- and community-based services program developed by the Department pursuant to this section shall focus on providing these ~~elderly~~ individuals with personal care services necessary to ameliorate the effects of gradual memory loss, impaired judgment, disorientation, personality change, difficulty in learning, and loss of language skills."

SECTION 3.6. Section 10.23A.(f) of S.L. 2012-142 reads as rewritten:

"**SECTION 10.23A.(f)** Of the amount appropriated to the Fund established in subsection (d) of this section, the sum of thirty-nine million seven hundred thousand dollars (\$39,700,000) is designated for implementation of the State's plan to provide temporary, short-term assistance only to adult care homes as they transition into the State's Transitions to Community Living Initiative. These funds shall be used only for this purpose. The General Assembly recognizes that while transformation of the system is being undertaken, adult care homes provide stable and safe housing and care to many of North Carolina's frail and elderly population, and it is necessary during this time of transition and transformation of the statewide system that the industry remain able to provide such care.

~~Upon~~Following completion of an independent assessment process, as outlined in Section 10.9F(d) of this act, by December 31, 2012, and upon certification by the Department of Health and Human Services, in consultation with a local adult care home resident discharge team, as defined in G.S. 131D-2.1(3a), that a resident (i) who is no longer eligible to receive Medicaid reimbursable ~~assistance and~~ assistance, (ii) for whom a community placement has not yet been ~~arranged~~ arranged, and (iii) who cannot be safely and timely discharged into the community, the Department may make a monthly payment to the adult care home to support the facility's continuing provision of services to the resident. The Department may make the monthly

payment from the thirty-nine million seven hundred thousand dollars (\$39,700,000) designated for implementation of the State's plan under this subsection. The monthly payment provided by the Department to an adult care home pursuant to this subsection shall not exceed six hundred ninety-four dollars (\$694) per month per resident for a period not to exceed three months for each resident. At the expiration of this three-month period, the monthly payment shall be reduced by twenty-five percent (25%) and shall not exceed five hundred twenty dollars and fifty cents (\$520.50) per month per resident. Upon implementation of the home-and community-based services program for ~~elderly~~ individuals typically served in special care or memory care units, to be developed by the Department under Medicaid State Plan 1915(i) authority pursuant to Section 10.9E of this act, the Department shall terminate all monthly payments pursuant to this subsection for continuing services provided to residents of special care or memory care units. The Department shall terminate all monthly payments pursuant to this subsection on June 30, 2013. Notwithstanding any other provision of this subsection, the Department is prohibited from making any monthly payments under this subsection to an adult care home for services provided to any resident during the pendency of an appeal by or on behalf of the resident under G.S. 108A-70.9A.

The Department of Health and Human Services shall administer these funds but may, as needed, contract with a vendor for administration."

SECTION 3.7. Section 10.9F(g) of S.L. 2012-142 reads as rewritten:

"**SECTION 10.9F.(g)** ~~Subsections (e) and (d)~~Subsection (c) of this section ~~become~~ becomes effective January 1, 2013."

PART IV. NATURAL AND ECONOMIC RESOURCES

SECTION 4.1. Notwithstanding any provision of S.L. 2012-142 to the contrary, the sum of two hundred eighty-two thousand four hundred twelve dollars (\$282,412) in recurring funds shall be transferred from the Department of Environment and Natural Resources to the Department of Health and Human Services to support Division of Environmental Health operations associated with the Department of Environment and Natural Resources' Regional Offices.

SECTION 4.2. Notwithstanding any provision of S.L. 2012-142 to the contrary, 8.75 full-time equivalents shall be transferred from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services for the restoration of Division of Soil and Water Conservation employees associated with Department of Environment and Natural Resources' Regional Offices.

SECTION 4.3. S.L. 2012-142 reads is amended by adding a new section to read:

"SOIL AND WATER CONSERVATION CLARIFICATIONS

"SECTION 11.6.(a) Of the funds appropriated in this act to the Soil and Water Conservation Division of the Department of Agriculture and Community Services for the Conservation Reserve Enhancement Program, the recurring sum of two hundred seventy-five thousand dollars (\$275,000) designated for the Roanoke and Pasquotank River basins and for the implementation of amended Conservation Reserve Enhancement Program agreements in the Neuse, Tar-Pamlico, Chowan, and Jordan Lake basins may be used for operation and implementation of the Conservation Reserve Enhancement Program in any of the State's river basins eligible for the Conservation Reserve Enhancement Program.

"SECTION 11.6.(b) G.S. 139-4 reads as rewritten:

"§ 139-4. Powers and duties of Soil and Water Conservation Commission generally.

...

(d) In addition to the duties and powers hereinafter conferred upon the Soil and Water Conservation Commission, it shall have the following duties and powers:

...

- (12) To develop and approve best management practices for the Agriculture Cost Share Program for Nonpoint Source Pollution Control and for use in ~~the~~ water quality protection and water use efficiency, availability, and storage

programs of the Department of Environment and Natural Resources and to adopt rules that establish criteria governing approval of these best management practices.

...."

"SECTION 11.6.(c) Section 3.3 of S.L. 1999-329, as amended by Section 6 of S.L. 2001-254, Section 1.2 of S.L. 2002-176, Section 6.2 of S.L. 2003-340, and Section 12.7(b) of S.L. 2005-276, reads as rewritten:

"SECTION 3.3. The Department of ~~Environment and Natural Resources~~, Agriculture and Consumer Services, in consultation with both the Division of Water Quality of the Department of Environment and Natural Resources and the Division of Soil and Water Conservation, shall submit semiannual interim reports no later than 15 April and 15 October of each year beginning 15 October 1999 to the Environmental Review Commission, the Fiscal Research Division, and the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives. These reports shall indicate whether the pilot program has increased the effectiveness of the annual inspections program or the response to complaints and reported problems, specifically whether the pilot program had resulted in identifying violations earlier, taking corrective actions earlier, increasing compliance with the animal waste management plans and permit conditions, improving the time to respond to discharges, complaints, and reported problems, improving communications between farmers and Department employees, and any other consequences deemed pertinent by the Department. These reports shall also compare the costs of conducting operations reviews and inspections under the pilot program with the costs of conducting operations reviews and inspections pursuant to G.S. 143-215.10D and G.S. 143-215.10F and the resources that would be required to expand the pilot program to all counties."

SECTION 4.4. S.L. 2012-142 is amended by adding a new section to read:

"CLARIFY USE OF FUNDS FROM NATURAL HERITAGE TRUST FUND

"SECTION 12.10. G.S. 113-77.9(c) reads as rewritten:

"(c) Other Purposes. – The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes. The Trustees may also authorize expenditures from the Fund to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3. The Trustees shall authorize expenditures from the Fund not to exceed seventy-five thousand dollars (\$75,000) to pay the cost of the Department of Agriculture and Consumer Services to administer the Plant Conservation Program. The Trustees shall authorize expenditures from the Fund not to exceed three hundred twenty-five thousand dollars (\$325,000) to pay the cost of supporting staff in the Office of Conservation Planning and Community Affairs of the Department of Environment and Natural ~~Resources~~. Resources for activities in addition to those conducted in support of the purposes set forth in this section."

SECTION 4.5. Section 13.9A of S.L. 2012-142 is amended by adding a new subsection to read:

"SECTION 13.9A.(c) The Department of Commerce shall transfer to the Department of Agriculture and Consumer Services position 60080945. This position shall be supported from funds appropriated for the 2012-2013 fiscal year in this act to the Department of Agriculture and Consumer Services for the North Carolina Wine and Grape Growers Council on a nonrecurring basis."

SECTION 4.6. Section 13.12A of S.L. 2012-142 is repealed.

SECTION 4.7. S.L. 2012-142 is amended by adding a new section to read as follows:

"BIOFUELS CENTER OF NORTH CAROLINA/TVA FUNDS

"SECTION 13.12A1. Subsections (a) and (b) of Section 14.14 of S.L. 2011-145 are repealed."

SECTION 4.8. S.L. 2012-142 is amended by adding the following new section to read:

"REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS FUNDING

SECTION 13.16. Of the funds appropriated in this act, an additional sum of one million dollars (\$1,000,000) for the 2012-2013 fiscal year in nonrecurring funds shall be allocated to the Regional Economic Development Commissions."

SECTION 4.9. S.L. 2012-142 is amended by adding the following new section to read:

"RURAL ECONOMIC DEVELOPMENT CENTER FLEXIBILITY

SECTION 13.13B.(a) Sections 13.13, 13.13A, and 13.14A of House Bill 950, 2012 Regular Session, are repealed.

SECTION 13.13B.(b) Notwithstanding Sections 14.16, 14.17, and 14.18 of S.L. 2011-145, an additional sum of two million dollars (\$2,000,000) for the 2012-2013 fiscal year in nonrecurring funds shall be allocated to the Rural Economic Development Center. The Center shall determine which reductions are needed to achieve the reductions required by this act for the 2012-2013 fiscal year."

PART V. GENERAL GOVERNMENT

SECTION 5.1. S.L. 2012-142 is amended by adding a new Part to read:

"PART XVIA. DEPARTMENT OF ADMINISTRATION

"NORTH CAROLINA STERILIZATION VICTIMS FOUNDATION FUNDING

"SECTION 16A.1. Of the funds appropriated to the Department of Administration, up to the sum of one hundred twenty-eight thousand six hundred eighteen dollars (\$128,618) for the 2012-2013 fiscal year shall be used for the continued operation of the North Carolina Sterilization Victims Foundation on a nonrecurring basis."

PART VI. TRANSPORTATION

SECTION 6.1. S.L. 2012-142 is amended by adding a new section to read:

"DEPARTMENT OF TRANSPORTATION RELOCATION OF MUNICIPAL UTILITIES

"SECTION 24.22. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-27.3. Relocation of municipalities' utilities by Department; repayment by municipalities.

When requiring municipalities to relocate utilities under its power granted in G.S. 136-18(10), the Department may enter into agreements with municipalities to provide that the necessary engineering and utility construction be accomplished by the Department on a reimbursement basis as follows:

- (1) Reimbursement to the Department shall be due after completion of the work and within 60 days after date of invoice.
- (2) Interest shall be paid on any unpaid balance due at a variable rate of the prime rate plus one percent (1%)."

SECTION 6.2. Section 24.18(b) of S.L. 2012-142 reads as rewritten:

"SECTION 24.18.(b) ~~The Department of Transportation shall disregard Executive Order No. 116, or any other executive order pertaining to ferry tolls, and shall collect the tolls required by S.L. 2011-145 and this section, except for the Cherry Branch/Minnesott Beach route, for which the Department of Transportation shall not collect the increased tolls required by S.L. 2011-145 during fiscal year 2012-2013.~~Notwithstanding the clarifying amendment to G.S. 136-82 made by subsection (a) of this section and notwithstanding the increase in ferry toll revenue required by S.L. 2011-145, the Department of Transportation, Ferry Division, shall not collect the increased ferry tolls required by S.L. 2011-145 during fiscal year 2012-2013. Notwithstanding any other provision of this act, the sum of two million dollars (\$2,000,000),

nonrecurring, is not appropriated to the Turnpike Authority to supplement and advance project studies related to the Mid-Currituck Bridge project; instead, notwithstanding G.S. 136-176(b2) or any other provision of law, the sum of two million dollars (\$2,000,000), nonrecurring, of the funds appropriated to the Turnpike Authority under G.S. 136-176(b2) is transferred from the Highway Trust Fund to the Highway Fund, and that sum is appropriated from the Highway Fund to the Department of Transportation, Ferry Division, for fiscal year 2012-2013. Notwithstanding any other provision of this act, the appropriation provided elsewhere in this act for the Reserve for General Maintenance in the Highway Fund is decreased by the sum of five hundred thousand dollars (\$500,000), nonrecurring, and that sum is appropriated to the Department of Transportation, Ferry Division, for fiscal year 2012-2013. For fiscal year 2012-2013, the Department of Transportation, Ferry Division, shall collect the tolls as found in 19 NCAC 02D .0532 prior to the Department's March 2012 amendment to 19 NCAC 02D .0532. The Department of Transportation, Ferry Division, shall collect tolls based on the March 2012 amendment to 19 NCAC 02D .0532 beginning on July 1, 2013."

PART VI-A. CAPITAL APPROPRIATIONS

SECTION 6A.1. Section 26.1 of S.L. 2012-142 reads as rewritten:

"CAPITAL APPROPRIATIONS/GENERAL FUND

"SECTION 26.1.(a) There is appropriated from the General Fund for the 2012-2013 fiscal year the following amounts for capital improvements:

Capital Improvements – General Fund	2012-2013
Department of Environment and Natural Resources	
Water Resources Development Projects	\$ 5,000,000
<u>Department of Public Safety</u>	
<u>Greensboro Readiness Center Renovation and Expansion</u>	<u>\$1,373,330</u>

TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND ~~\$ 5,000,000~~**\$6,373,330**

"SECTION 26.1.(b) The General Assembly authorizes the Department of Public Safety to complete the Greensboro Readiness Center Renovation and Expansion capital improvement project in accordance with this section. The funds appropriated for that project in subsection (a) of this section shall be used as State matching funds for this project. The remainder of the project costs shall be paid from federal matching funds. The total project cost shall not exceed the sum of five million four hundred eighty-nine thousand eight hundred twenty dollars (\$5,489,820)."

PART VI-B. SALARIES AND BENEFITS

SECTION 6B.1. S.L. 2012-142 is amended by adding a new subsection to read:

"SPECIAL ANNUAL LEAVE BONUS

"SECTION 25.5. Any person (i) who was on July 1, 2012 a full-time permanent employee of the State, a community college institution, or a local board of education, or was under contract on July 1, 2012 to be employed for the 2012-2013 school year in such a position, and (ii) who is eligible to earn annual leave, shall have a one-time additional five days of annual leave credited on July 1, 2012. The additional leave shall be accounted for separately from the annual leave bonus provided by Section 28.3A of S.L. 2002-126, by Section 30.12B(a) of S.L. 2003-284, and by Section 29.14A of S.L. 2005-276, and must be used by June 30, 2013. Annual leave bonus not used during FY 2012-2013 shall expire on June 30, 2013 and shall not be paid in a lump sum upon termination of employment unless the person effects a retirement from a State-supported retirement system immediately upon termination of employment. Part-time permanent employees shall receive a pro rata amount of the five days."

PART VII. EFFECTIVE DATE

SECTION 7.1. Except as otherwise provided, this act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 3:11 p.m. on the 10th day of July, 2012.

Session Law 2012-146**H.B. 494**

AN ACT TO ALLOW THE USE OF CONTINUOUS ALCOHOL MONITORING SYSTEMS AS A CONDITION OF PRETRIAL RELEASE, AS A CONDITION OF PROBATION, TO MITIGATE PUNISHMENTS FOR IMPAIRED DRIVING OFFENSES, AND TO ENSURE COMPLIANCE WITH CHILD CUSTODY AND VISITATION ORDERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 15A-534(a) reads as rewritten:

"(a) In determining conditions of pretrial release a judicial official must impose at least one of the following conditions:

- (1) Release the defendant on his written promise to appear.
- (2) Release the defendant upon his execution of an unsecured appearance bond in an amount specified by the judicial official.
- (3) Place the defendant in the custody of a designated person or organization agreeing to supervise him.
- (4) Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. 58-74-5, or by at least one solvent surety.
- (5) House arrest with electronic monitoring.

If condition (5) is imposed, the defendant must execute a secured appearance bond under subdivision (4) of this subsection. If condition (3) is imposed, however, the defendant may elect to execute an appearance bond under subdivision (4). If the defendant is required to provide fingerprints pursuant to G.S. 15A-502(a1) or (a2), or a DNA sample pursuant to G.S. 15A-266.3A or G.S. 15A-266.4, and (i) the fingerprints or DNA sample have not yet been taken or (ii) the defendant has refused to provide the fingerprints or DNA sample, the judicial official shall make the collection of the fingerprints or DNA sample a condition of pretrial release. The judicial official may also place restrictions on the travel, associations, conduct, or place of abode of the defendant as conditions of pretrial release. The judicial official may include as a condition of pretrial release that the defendant abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, and that any violation of this condition be reported by the monitoring provider to the district attorney."

SECTION 1.(b) G.S. 15A-534(i) is repealed.

SECTION 2. G.S. 15A-534.1(a)(2) reads as rewritten:

- "(2) A judge may impose the following conditions on pretrial release:
- a. That the defendant stay away from the home, school, business or place of employment of the alleged ~~victim~~; victim.
 - b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged ~~victim~~; victim.
 - c. That the defendant refrain from removing, damaging or injuring specifically identified ~~property~~; property.
 - d. That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.

- e. That the defendant abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, and that any violation of this condition be reported by the monitoring provider to the district attorney.

The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond."

SECTION 3. G.S. 15A-1343(a1) reads as rewritten:

"(a1) Community and Intermediate Probation Conditions. — In addition to any conditions a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any one or more of the following conditions as part of a community or intermediate punishment:

- (1) House arrest with electronic monitoring.
- (2) Perform community service.
- (3) Submission to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month.
- (4) Substance abuse assessment, monitoring, or treatment.
- (4a) Abstain from alcohol consumption and submit to continuous alcohol monitoring when alcohol dependency or chronic abuse has been identified by a substance abuse assessment.
- (5) Participation in an educational or vocational skills development program, including an evidence-based program.
- (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2)."

SECTION 4. G.S. 15A-1343(b) reads as rewritten:

"(b) Regular Conditions. — As regular conditions of probation, a defendant must:

- (1) Commit no criminal offense in any jurisdiction.
- (2) Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer.
- (3) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment.
- (3a) Not to abscond, by willfully avoiding supervision or by willfully making the defendant's whereabouts unknown to the supervising probation officer.
- (4) Satisfy child support and other family obligations as required by the court. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c).
- (5) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court.
- (6) Pay a supervision fee as specified in subsection (c1).
- (7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. A defendant pursuing a course of study or of vocational training shall abide by all of the rules of the institution providing the education or training, and the probation officer shall forward a copy of the probation judgment to that

- institution and request to be notified of any violations of institutional rules by the defendant.
- (8) Notify the probation officer if he fails to obtain or retain satisfactory employment.
 - (9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d).
 - (10) Pay the State of North Carolina for the costs of appointed counsel, public defender, or appellate defender to represent him in the case(s) for which he was placed on probation.
 - (11) Repealed by Session Laws 2011-62, s. 1, as amended by Session Laws 2011-412, s. 2.2, effective December 1, 2011, and applicable to offenses committed on or after December 1, 2011.
 - (12) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) there is a program, approved by the Domestic Violence Commission, reasonably available to the defendant, unless the court finds that such would not be in the best interests of justice.
 - (13) Submit at reasonable times to warrantless searches by a probation officer of the probationer's person and of the probationer's vehicle and premises while the probationer is present, for purposes directly related to the probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful.
 - (14) Submit to warrantless searches by a law enforcement officer of the probationer's person and of the probationer's vehicle, upon a reasonable suspicion that the probationer is engaged in criminal activity or is in possession of a firearm, explosive device, or other deadly weapon listed in G.S. 14-269 without written permission of the court.
 - (15) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.
 - (16) Supply a breath, urine, or blood specimen for analysis of the possible presence of prohibited drugs or alcohol when instructed by the defendant's probation officer for purposes directly related to the probation supervision. If the results of the analysis are positive, the probationer may be required to reimburse the Division of Adult Correction of the Department of Public Safety for the actual costs of drug or alcohol screening and testing.

~~A defendant shall not pay costs associated with a substance abuse monitoring program or any other special condition of probation in lieu of, or prior to, the payments required by this subsection.~~

In addition to these regular conditions of probation, a defendant required to serve an active term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and regulations of the Division of Adult Correction of the Department of Public Safety governing the conduct of inmates while imprisoned and report to a probation officer in the State of North Carolina within 72 hours of his discharge from the active term of imprisonment.

Regular conditions of probation apply to each defendant placed on supervised probation unless the presiding judge specifically exempts the defendant from one or more of the conditions in open court and in the judgment of the court. It is not necessary for the presiding

judge to state each regular condition of probation in open court, but the conditions must be set forth in the judgment of the court.

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the regular conditions contained in subdivisions (2), (3), (6), (8), (13), (14), (15), and (16) of this subsection."

SECTION 5. G.S. 15A-1343(b1) is amended by adding a new subdivision to read:

"(b1) Special Conditions. – In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

...

(2c) Abstain from alcohol consumption and submit to continuous alcohol monitoring when alcohol dependency or chronic abuse has been identified by a substance abuse assessment.

...."

SECTION 6. G.S. 15A-1343.2(f) reads as rewritten:

"(f) Delegation to Probation Officer in Intermediate Punishments. — Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety may require an offender sentenced to intermediate punishment to do any of the following:

- (1) Perform up to 50 hours of community service, and pay the fee prescribed by law for this supervision.
- (2) Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically.
- (3) Submit to substance abuse assessment, monitoring or ~~treatment~~treatment, including continuous alcohol monitoring when abstinence from alcohol consumption has been specified as a term of probation.
- (4) Participate in an educational or vocational skills development program, including an evidence-based program.
- (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2).
- (6) Submit to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month.
- (7) Submit to house arrest with electronic monitoring.
- (8) Report to the offender's probation officer on a frequency to be determined by the officer.

If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

The probation officer may exercise authority delegated to him or her by the court pursuant to subsection (f) of this section after administrative review and approval by a Chief Probation Officer. The offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. However, the offender shall have no right of review if he or she has signed a written waiver of rights as required by this subsection. The Section may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one

or more of the conditions of probation imposed by the court or the offender is determined to be high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (6) of this subsection may not be imposed unless the Section determines that the offender failed to comply with one or more of the conditions imposed by the court. Nothing in this section shall be construed to limit the availability of the procedures authorized under G.S. 15A-1345.

The Division shall adopt guidelines and procedures to implement the requirements of this section, which shall include a supervisor's approval prior to exercise of the delegation of authority authorized by this section. Prior to imposing confinement pursuant to subdivision (6) of this subsection, the probationer must first be presented with a violation report, with the alleged violations noted and advised of the right (i) to a hearing before the court on the alleged violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have relevant information concerning the alleged violations; and (iv) to examine any witnesses or evidence. Upon the signing of a waiver of rights by the probationer, with both the probation officer and a supervisor signing as witnesses, the probationer may be confined for the period designated on the violation report."

SECTION 7. G.S. 15A-1343.3 reads as rewritten:

"§ **15A-1343.3. Division of Adult Correction of the Department of Public Safety to establish regulations for continuous alcohol monitoring ~~systems~~systems; payment of fees; authority to terminate monitoring.**

(a) The Division of Adult Correction of the Department of Public Safety shall establish regulations for continuous alcohol monitoring systems that are authorized for use by the courts as evidence that an offender on probation has abstained from the use of alcohol for a specified period of time. A "continuous alcohol monitoring system" is a device that is worn by a person that can detect, monitor, record, and report the amount of alcohol within the wearer's system over a continuous 24-hour daily basis. The regulations shall include the procedures for supervision of the offender, collection and monitoring of the results, and the transmission of the data to the court for consideration by the court. All courts, including those using continuous alcohol monitoring systems prior to July 4, 2007, shall comply with the regulations established by the Division pursuant to this section.

The Secretary, or the Secretary's designee, shall approve continuous alcohol monitoring systems for use by the courts prior to their use by a court as evidence of alcohol abstinence, or their use as a condition of probation. The Secretary shall not unreasonably withhold approval of a continuous alcohol monitoring system and shall consult with the Division of Purchase and Contract in the Department of Administration to ensure that potential vendors are not discriminated against.

(b) Any fees or costs paid by an offender on probation in order to comply with continuous alcohol monitoring shall be paid directly to the monitoring provider. A monitoring provider shall not terminate the provision of continuous alcohol monitoring for nonpayment of fees unless authorized by the court."

SECTION 8. G.S. 20-28(a) reads as rewritten:

"(a) Driving While License Revoked. – Except as provided in subsection (a1) of this section, any person whose drivers license has been revoked who drives any motor vehicle upon the highways of the State while the license is revoked is guilty of a Class 1 misdemeanor. Upon conviction, the person's license shall be revoked for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense.

If the person's license was originally revoked for an impaired driving revocation, the court may order as a condition of probation that the offender abstain from alcohol consumption and verify compliance by use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, for a minimum period of 90 days.

The restoree of a revoked drivers license who operates a motor vehicle upon the highways of the State without maintaining financial responsibility as provided by law shall be punished as for driving without a license."

SECTION 9. G.S. 20-179 reads as rewritten:

"§ 20-179. **Sentencing hearing after conviction for impaired driving; determination of grossly aggravating and aggravating and mitigating factors; punishments.**

...

(g) Level One Punishment. – A defendant subject to Level One punishment may be fined up to four thousand dollars (\$4,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 30 days and a maximum term of not more than 24 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 30 days. A judge may reduce the minimum term of imprisonment required to a term of not less than 10 days if a condition of special probation is imposed to require that a defendant abstain from alcohol consumption and be monitored by a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, for a period of not less than 120 days. If the defendant is monitored on an approved continuous alcohol monitoring system during the pretrial period, up to 60 days of pretrial monitoring may be credited against the 120-day monitoring requirement for probation. If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(h) Level Two Punishment. – A defendant subject to Level Two punishment may be fined up to two thousand dollars (\$2,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than seven days and a maximum term of not more than 12 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least seven ~~days~~ days or to abstain from consuming alcohol for at least 90 consecutive days, as verified by a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety. If the defendant is monitored on an approved continuous alcohol monitoring system during the pretrial period, up to 60 days of pretrial monitoring may be credited against the 90-day monitoring requirement for probation. If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

...

~~(h3) Any fees or costs paid pursuant to subsection (h1) of this section shall be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees or costs collected under this subsection shall be transmitted to the entity providing the continuous alcohol monitoring system.~~

...

(k2) Probationary Requirement for Abstinence and Use of Continuous Alcohol Monitoring. – The judge may order that as a condition of special probation for any level of offense under G.S. 20-170 the defendant abstain from alcohol consumption, as verified by a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety.

(k3) The court, in the sentencing order, may authorize probation officers to require defendants to submit to continuous alcohol monitoring for assessment purposes if the defendant has been required to abstain from alcohol consumption during the term of probation and the probation officer believes the defendant is consuming alcohol. The defendant shall bear the

costs of the continuous alcohol monitoring system if the use of the system has been authorized by a judge in accordance with this subsection.

(k4) Notwithstanding the provisions of subsections (g), (h), (k2), and (k3) of this section, if the court finds, upon good cause shown, that the defendant should not be required to pay the costs of the continuous alcohol monitoring system, the court shall not impose the use of a continuous alcohol monitoring system unless the local governmental entity responsible for the incarceration of the defendant in the local confinement facility agrees to pay the costs of the system.

...."

SECTION 10. G.S. 50-13.2 is amended by adding a new subsection to read:

"(b2) Any order for custody, including visitation, may, as a condition of such custody or visitation, require either or both parents, or any other person seeking custody or visitation, to abstain from consuming alcohol and may require submission to a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, to verify compliance with this condition of custody or visitation. Any order pursuant to this subsection shall include an order to the monitoring provider to report any violation of the order to the court and each party to the action. Failure to comply with this condition shall be grounds for civil or criminal contempt."

SECTION 11. This act becomes effective December 1, 2012, and applies to offenses committed or any custody and visitation orders issued on or after that date.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

Became law upon approval of the Governor at 3:55 p.m. on the 12th day of July, 2012.

Session Law 2012-147

S.B. 227

AN ACT TO PROVIDE THAT THE NAME AND ADDRESS OF A MINOR CHILD INVOLVED IN A SCHOOL BUS CRASH MAY BE DISCLOSED ONLY IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-166.1(h)(3) reads as rewritten:

"(h) Forms. – The Division shall provide forms or procedures for submitting crash data to persons required to make reports under this section and the reports shall be made in a format approved by the Commissioner. The following information shall be included about a reportable crash:

- ...
- (3) The persons and vehicles ~~involved~~involved, except that the name and address of a minor child involved in a school bus crash who is a passenger on a school bus may only be disclosed to (i) the local board of education, (ii) the State Board of Education, (iii) the parent or guardian of the child, (iv) an insurance company investigating a claim arising out of the crash, (v) an attorney representing a person involved in the crash, and (vi) law enforcement officials investigating the crash. As used in this subdivision, school bus also includes a school activity bus as defined by G.S. 20-4.01(27).

...."

SECTION 2. This act becomes effective October 1, 2012.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 3:57 p.m. on the 12th day of July, 2012.

Session Law 2012-148

S.B. 635

AN ACT TO AMEND THE STATE SENTENCING LAWS TO COMPLY WITH THE UNITED STATES SUPREME COURT DECISION IN MILLER V. ALABAMA.

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 93.

"Sentencing for Minors Subject to Life Imprisonment Without Parole.

"§ 15A-1476. Applicability.

Notwithstanding the provisions of G.S. 14-17, a defendant who is convicted of first degree murder, and who was under the age of 18 at the time of the offense, shall be sentenced in accordance with this Article. For the purposes of this Article, "life imprisonment with parole" shall mean that the defendant shall serve a minimum of 25 years imprisonment prior to becoming eligible for parole.

"§ 15A-1477. Penalty determination.

(a) In determining a sentence under this Article, the court shall do one of the following:

- (1) If the sole basis for conviction of a count or each count of first degree murder was the felony murder rule, then the court shall sentence the defendant to life imprisonment with parole.
- (2) If the court does not sentence the defendant pursuant to subdivision (1) of this subsection, then the court shall conduct a hearing to determine whether the defendant should be sentenced to life imprisonment without parole, as set forth in G.S. 14-17, or a lesser sentence of life imprisonment with parole.

(b) The hearing under subdivision (2) of subsection (a) of this section shall be conducted by the trial judge as soon as practicable after the guilty verdict is returned. The State and the defendant shall not be required to resubmit evidence presented during the guilt determination phase of the case. Evidence, including evidence in rebuttal, may be presented as to any matter that the court deems relevant to sentencing, and any evidence which the court deems to have probative value may be received.

(c) The defendant or the defendant's counsel may submit mitigating circumstances to the court, including, but not limited to, the following factors:

- (1) Age at the time of the offense.
- (2) Immaturity.
- (3) Ability to appreciate the risks and consequences of the conduct.
- (4) Intellectual capacity.
- (5) Prior record.
- (6) Mental health.
- (7) Familial or peer pressure exerted upon the defendant.
- (8) Likelihood that the defendant would benefit from rehabilitation in confinement.
- (9) Any other mitigating factor or circumstance.

(d) The State and the defendant or the defendant's counsel shall be permitted to present argument for or against the sentence of life imprisonment with parole. The defendant or the defendant's counsel shall have the right to the last argument.

(e) The provisions of Article 58 of Chapter 15A of the General Statutes apply to proceedings under this Article.

"§ 15A-1478. Sentencing; assignment for resentencing.

(a) The court shall consider any mitigating factors in determining whether, based upon all the circumstances of the offense and the particular circumstances of the defendant, the defendant should be sentenced to life imprisonment with parole instead of life imprisonment without parole. The order adjudging the sentence shall include findings on the absence or

presence of any mitigating factors and such other findings as the court deems appropriate to include in the order.

(b) All motions for appropriate relief filed in superior court seeking resentencing under the provisions of this Article may be heard and determined in the trial division by any judge (i) who is empowered to act in criminal matters in the superior court district or set of districts as defined in G.S. 7A-41.1, in which the judgment was entered and (ii) who is assigned pursuant to this section to review the motion for appropriate relief and take the appropriate administrative action to dispense with the motion.

(c) The judge who presided at the trial of the defendant is empowered to act upon the motion for appropriate relief even though the judge is in another district or even though the judge's commission has expired; however, if the judge who presided at the trial is still unavailable to act, the senior resident superior court judge shall assign a judge who is empowered to act under subsection (b) of this section.

(d) All motions for appropriate relief filed in superior court seeking resentencing under the provisions of this Article shall, when filed, be referred to the senior resident superior court judge, who shall assign the motion as provided by this section for review and administrative action, including, as may be appropriate, dismissal, calendaring for hearing, entry of a scheduling order for subsequent events in the case, or other appropriate actions.

"§ 15A-1479. Incidents of parole.

(a) Except as otherwise provided in this section, a defendant sentenced to life imprisonment with parole shall be subject to the conditions and procedures set forth in Article 85 of Chapter 15A of the General Statutes, including the notification requirement in G.S. 15A-1371(b)(3).

(b) The term of parole for a person released from imprisonment from a sentence of life imprisonment with parole shall be five years and may not be terminated earlier by the Post-Release Supervision and Parole Commission.

(c) A defendant sentenced to life imprisonment with parole who is paroled, and then violates a condition of parole and is returned to prison to serve the life sentence, shall not be eligible for parole for five years from the date of the return to confinement.

(d) Life imprisonment with parole under this Article means that unless the defendant receives parole, the defendant shall remain imprisoned for the defendant's natural life."

SECTION 2. The North Carolina Sentencing and Policy Advisory Commission, in consultation with the Office of the Juvenile Defender, the Conference of District Attorneys, and other organizations and agencies it deems appropriate, shall study the provisions in this act, United States Supreme Court precedent relevant to sentencing a minor for first degree murder, sentencing policies in other jurisdictions, and any other matter relating to the sentencing of minors convicted of first degree murder. The Commission shall report its findings and recommendations to the General Assembly no later than January 31, 2013.

SECTION 3. This act is effective when it becomes law and is applicable to any sentencing hearings held on or after that date. This act also applies to any resentencing hearings required by law for a defendant who was under the age of 18 years at the time of the offense, was sentenced to life imprisonment without parole prior to the effective date of this act, and for whom a resentencing hearing has been ordered.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 3:59 p.m. on the 12th day of July, 2012.

Session Law 2012-149

S.B. 707

AN ACT TO ENACT THE SCHOOL VIOLENCE PREVENTION ACT OF 2012; LIMIT PRAYERS FOR JUDGMENT CONTINUED; AND END SUNSET FOR A PROVISION REGARDING AN LEA'S BASIS OF KNOWLEDGE ABOUT A CHILD WITH A DISABILITY.

Whereas, the General Assembly of North Carolina finds that a safe and civil environment in school is necessary in order for students to learn and achieve high academic standards; and

Whereas, bullying and harassment, like other disruptive or violent behaviors, disrupt both a student's ability to learn and a school's ability to educate its students in a safe environment; and

Whereas, bullying and harassing behaviors create a climate that fosters violence in our schools; and

Whereas, it is essential to enact a law that seeks to protect the health and welfare of North Carolina students and improve the learning environment for North Carolina students; and

Whereas, to do so, State and national data and anecdotal evidence have established the need to identify the most vulnerable targets and potential victims of bullying and harassment; and

Whereas, the sole purpose of this law is to protect all children from bullying and harassment, and no other legislative purpose is intended nor should any other intent be construed from passage of this law; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-33 is amended by adding a new subsection to read:

"(c1) No school personnel as defined in G.S. 14-33(c)(6) who takes reasonable actions in good faith to end a fight or altercation between students shall incur any civil or criminal liability as the result of those actions."

SECTION 2. G.S. 14-453(7c) reads as rewritten:

"(7c) "Profile" means (i) a configuration of user data required by a computer so that the user may access programs or services and have the desired functionality on that computer or (ii) a Web site user's personal page or section of a page made up of data, in text or graphical form, which displays significant, unique, or identifying information, including, but not limited to, listing acquaintances, interests, associations, activities, or personal statements."

SECTION 3. G.S. 14-458.1(a) reads as rewritten:

"(a) Except as otherwise made unlawful by this Article, it shall be unlawful for any person to use a computer or computer network to do any of the following:

...

- (3) ~~Plant~~ Make any statement, whether true or false, ~~tending~~ intending to immediately provoke, provoke or and that actually provokes that is likely to provoke, any third party to stalk or harass a minor.
- (4) Copy and disseminate, or cause to be made, an unauthorized copy of any data pertaining to a minor for the purpose of intimidating or tormenting that minor (in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network).
- (5) Sign up a minor for a pornographic Internet ~~site~~ site with the intent to intimidate or torment the minor.
- (6) Without authorization of the minor or the minor's parent or guardian, sign up a minor for electronic mailing lists or to receive junk electronic messages

and instant messages, with the intent to intimidate or torment the minor. resulting in intimidation or torment of the minor."

SECTION 4. Article 60 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-458.2. Cyber-bullying of school employee by student; penalty.

(a) The following definitions apply in this section:

(1) School employee. – The term means any of the following:

a. An employee of a local board of education, a charter school authorized under G.S. 115C-238.29D, a regional school created under G.S. 115C-238.62, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes.

b. An independent contractor or an employee of an independent contractor of a local board of education, a charter school authorized under G.S. 115C-238.29D, a regional school created under G.S. 115C-238.62, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, if the independent contractor carries out duties customarily performed by employees of the school.

(2) Student. – A person who has been assigned to a school by a local board of education as provided in G.S. 115C-366 or has enrolled in a charter school authorized under G.S. 115C-238.29D, a regional school created under G.S. 115C-238.62, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, or a person who has been suspended or expelled from any of those schools within the last year.

(b) Except as otherwise made unlawful by this Article, it shall be unlawful for any student to use a computer or computer network to do any of the following:

(1) With the intent to intimidate or torment a school employee, do any of the following:

a. Build a fake profile or Web site.

b. Post or encourage others to post on the Internet private, personal, or sexual information pertaining to a school employee.

c. Post a real or doctored image of the school employee on the Internet.

d. Access, alter, or erase any computer network, computer data, computer program, or computer software, including breaking into a password-protected account or stealing or otherwise accessing passwords.

e. Use a computer system for repeated, continuing, or sustained electronic communications, including electronic mail or other transmissions, to a school employee.

(2) Make any statement, whether true or false, intending to immediately provoke, and that is likely to provoke, any third party to stalk or harass a school employee.

(3) Copy and disseminate, or cause to be made, an unauthorized copy of any data pertaining to a school employee for the purpose of intimidating or tormenting that school employee (in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network).

(4) Sign up a school employee for a pornographic Internet site with the intent to intimidate or torment the employee.

(5) Without authorization of the school employee, sign up a school employee for electronic mailing lists or to receive junk electronic messages and instant messages, with the intent to intimidate or torment the school employee.

(c) Any student who violates this section is guilty of cyber-bullying a school employee, which offense is punishable as a Class 2 misdemeanor.

(d) Whenever any student pleads guilty to or is guilty of an offense under this section, the court may, without entering a judgment of guilt and with the consent of the student, defer further proceedings and place the student on probation upon such reasonable terms and conditions as the court may require. Upon fulfillment of the terms and conditions of the probation provided for in this subsection, the court shall discharge the student and dismiss the proceedings against the student. Discharge and dismissal under this subsection 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. Upon discharge and dismissal pursuant to this subsection, the student 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. 15A-146.

(e) Whenever a complaint is received pursuant to Article 17 of Chapter 7B of the General Statutes based upon a student's violation of this section, the juvenile may, upon a finding of legal sufficiency pursuant to G.S. 7B-1706, enter into a diversion contract pursuant to G.S. 7B-1706."

SECTION 5. G.S. 15A-301 is amended by adding new subsections to read:

"(b1) Approval by District Attorney; school personnel. – Notwithstanding any other provision of law, no warrant for arrest, order for arrest, criminal summons, or other criminal process shall be issued by a magistrate against a school employee, as defined in G.S. 14-33(c)(6), for an offense that occurred while the school employee was in the process of discharging his or her duties of employment, without the prior written approval of the district attorney or the district attorney's designee. For purposes of this subsection, the term "district attorney" means the person elected to the office of district attorney. This subsection does not apply if the offense is a traffic offense or if the offense occurred in the presence of a sworn law enforcement officer. The district attorney may decline to accept the authority set forth in this subsection; in such case, the procedure and review authority shall be as set forth in subsection (b2) of this section.

(b2) Magistrate review; school personnel. – A district attorney may decline the authority provided under subsection (b1) of this section by transmitting a letter so indicating to the chief district court judge. Upon receipt of a letter from the district attorney declining the authority provided in subsection (b1) of this section, the chief district court judge shall appoint a magistrate or magistrates to review any application for a warrant for arrest, order for arrest, criminal summons, or other criminal process against a school employee, as defined in G.S. 14-33(c)(6), where the allegation is that the school employee committed a misdemeanor offense while discharging his or her duties of employment. The failure to comply with any of the requirements in this subsection shall not affect the validity of any warrant, order, summons, or other criminal process. The following exceptions apply to the requirements in this subsection:

- (1) The offense is a traffic offense.
- (2) The offense occurred in the presence of a sworn law enforcement officer.
- (3) There is no appointed magistrate available to review the application."

SECTION 6. Article 5 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-46.2. Probation officer visits at school; limitations.

(a) Except as provided in this section, probation officers are not authorized to visit students during school hours on school property.

(b) Probation officers of the Division of Community Corrections, when working as a part of the Division's School Partnership Program, may visit students during school hours on school property with prior authorization by school administrators. For purposes of this section, "authorization" includes requests for assistance from guidance counselors or school resource officers.

(c) Each local board of education shall develop policies and guidelines for coordinating with probation officers of the Division of Community Corrections in the planning and scheduling of school visits as provided in this section, utilizing existing administrative capacity to manage scheduling. Visits shall be conducted in a private area designated for such use and located away from contact with the general student population. The probation officer shall not initiate direct contact with a student while the student is in class or between classes. Initial contact with the student shall be made by a school administrator or other designated school employee, who shall direct the student to a private area to meet with the probation officer."

SECTION 7. G.S. 115C-288(g) reads as rewritten:

"(g) To Report Certain Acts to Law Enforcement and the Superintendent. – When the principal has personal ~~knowledge, a reasonable belief, knowledge~~ or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

~~A principal who willfully fails to make a report to law enforcement required by this subsection may be subject to demotion or dismissal pursuant to G.S. 115C-325.~~

Notwithstanding any other provision of law, the State Board of Education shall not require the principal to report to law enforcement acts in addition to those required to be reported by ~~this subsection law.~~

For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

The principal or the principal's designee shall notify the superintendent or the superintendent's designee in writing or by electronic mail regarding any report made to law enforcement under this subsection. This notification shall occur by the end of the workday in which the incident occurred when reasonably possible but not later than the end of the following workday. The superintendent shall provide the information to the local board of education.

Nothing in this subsection shall be interpreted to interfere with the due process rights of school employees or the privacy rights of students."

SECTION 8. Article 19 of Chapter 115C of the General Statutes is amended by adding a new section to read:

§ 115C-289.1. Supervisor duty to report; intimidation of school employee.

(a) When a supervisor of a school employee has actual notice that the school employee has been the victim of an assault by a student in violation of G.S. 14-33(c)(6) resulting in physical injury, as that term is defined in G.S. 14-34.7, the supervisor shall immediately report to the principal the assault against the school employee. For the purpose of this subsection, the term "supervisor of a school employee" does not include the principal or superintendent.

(b) A principal, superintendent, or supervisor of a school employee shall not, by threats or in any other manner, intimidate or attempt to intimidate that school employee from reporting to law enforcement an assault by a student under G.S. 14-33(c)(6).

(c) Nothing in this section shall be interpreted to interfere with the due process rights of school employees or the privacy rights of students."

SECTION 9. Article 25 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-366.4. Assignment of students convicted of cyber-bullying.

A student who is convicted under G.S. 14-458.2 of cyber-bullying a school employee shall be transferred to another school within the local school administrative unit. If there is no other appropriate school within the local school administrative unit, the student shall be transferred to a different class or assigned to a teacher who was not involved as a victim of the cyber-bullying. Notwithstanding the provisions in this section, the superintendent may modify, in writing, the required transfer of an individual student on a case-by-case basis."

SECTION 10. G.S. 115C-390.3 is amended by adding a new subsection to read:

"(d) No school employee shall be reprimanded or dismissed for acting or failing to act to stop or intervene in an altercation between students if the employee's actions are consistent with local board policies. Local boards of education shall adopt policies, pursuant to their authority under G.S. 115C-47(18), which provide guidelines for an employee's response if the employee has personal knowledge or actual notice of an altercation between students."

SECTION 11. Article 81 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-1331B. Prayer for judgment continued for a period of time that exceeds 12 months is an improper disposition of a Class B1, B2, C, D, or E felony.

The court shall not dispose of any criminal action that is a Class B1, B2, C, D, or E felony by ordering a prayer for judgment continued that exceeds 12 months. If the court orders a prayer for judgment continued in any criminal action that is a Class B1, B2, C, D, or E felony, the court shall include as a condition that the State shall pray judgment within a specific period of time not to exceed 12 months. At the time the State prays judgment, or 12 months from the date of the prayer for judgment continued order, whichever is earlier, the court shall enter a final judgment unless the court finds that it is in the interest of justice to continue the order for prayer for judgment continued. If the court continues the order for prayer for judgment continued, the order shall be continued for a specific period of time not to exceed 12 months. The court shall not continue a prayer for judgment continued order for more than one additional 12-month period."

SECTION 11.5. If Senate Bill 724, 2011 Regular Session, becomes law, the lead-in language for Section 5 of that bill is rewritten to read:

"SECTION 5. Section 5 of S.L. 2008-90, as amended by Section 1 of S.L. 2010-36, reads as rewritten:"

SECTION 12. Section 5 is effective on and after the date that a magistrate is appointed by the chief district court judge to perform the function set forth in that section. Sections 3, 4, and 11 of this act become effective December 1, 2012, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law. Sections 6, 7, 8, 9, and 10 apply beginning with the 2012-2013 school year.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 4:01 p.m. on the 12th day of July, 2012.

Session Law 2012-150

H.B. 203

AN ACT TO PROVIDE AN ALTERNATIVE MORTGAGE SATISFACTION FORM THAT ALLOWS A SECURED CREDITOR TO INDICATE THAT THE UNDERLYING OBLIGATION HAS BEEN EXTINGUISHED; TO MAKE IT A CLASS I FELONY TO SIMULATE COURT PROCESS IN CONNECTION WITH THE COLLECTION OF A CLAIM, DEMAND, OR ACCOUNT, TO KNOWINGLY FILE A FALSE LIEN OR ENCUMBRANCE AGAINST THE REAL OR PERSONAL PROPERTY OF A PUBLIC OFFICER OR PUBLIC EMPLOYEE, OR TO FILE A FALSE SECURITY INSTRUMENT; AND TO PROVIDE THAT IT IS A VIOLATION OF THE RESIDENTIAL MORTGAGE FRAUD ACT FOR A PERSON TO KNOWINGLY FILE

A DOCUMENT FALSELY CLAIMING THAT A MORTGAGE LOAN HAS BEEN SATISFIED OR DISCHARGED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45-36.11 reads as rewritten:

"§ 45-36.11. **Satisfaction: form.**

(a) Standard Form. – No particular phrasing is required for a satisfaction of a security instrument. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.10(a):

'SATISFACTION OF SECURITY INSTRUMENT
(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (Identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book ____ at Page ____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

This satisfaction terminates the effectiveness of the security instrument.

Date: _____

(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]'

(b) Alternate Form. – A secured creditor who would like to indicate that the underlying obligation secured by the instrument has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.10(a):

'SATISFACTION OF SECURITY INSTRUMENT
(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (Identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book ____ at Page ____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

This satisfaction terminates the effectiveness of the security instrument and extinguishes the underlying obligation secured by the instrument.

Date: _____

(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]'''.

SECTION 2. G.S. 45-36.21 reads as rewritten:

"§ 45-36.21. Trustee's satisfaction of deed of trust: form.

(a) Standard Form. – No particular phrasing is required for a trustee's satisfaction of a deed of trust. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.20:

**'TRUSTEE'S SATISFACTION OF DEED OF TRUST
(G.S. 45-36.20; G.S. 45-37(a)(7))**

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book ____ at Page ____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: _____

(Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]

(b) Alternate Form. – A trustee and secured creditor who would like to indicate that the underlying obligation secured by the deed of trust has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.20:

**'TRUSTEE'S SATISFACTION OF DEED OF TRUST
AND
CREDITOR'S RELEASE
(G.S. 45-36.20; G.S. 45-37(a)(7))**

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book ____ at Page ____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: _____

(Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]

The obligation secured by the deed of trust has been extinguished.

Date: _____

(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]".

SECTION 3. G.S. 14-118.1 reads as rewritten:

"§ 14-118.1. Simulation of court process in connection with collection of claim, demand or account.

It shall be unlawful for any person, firm, corporation, association, agent or employee in any manner to coerce, intimidate, or attempt to coerce or intimidate any person in connection with any claim, demand or account, by the issuance, utterance or delivery of any matter, printed, typed or written, which (i) simulates or resembles a summons, warrant, writ or other court process or pleading; or (ii) by its form, wording, use of the name of North Carolina or any officer, agency or subdivision thereof, use of seals or insignia, or general appearance has a tendency to create in the mind of the ordinary person the false impression that it has judicial or other official authorization, sanction or approval. Any violation of the provisions of this section shall be a ~~Class 2 misdemeanor.~~ **Class I felony.**"

SECTION 4. Article 20 of Chapter 14 of the General Statutes is amended by adding a new section to read as follows:

"§ 14-118.6. Filing false lien or encumbrance.

(a) It shall be unlawful for any person to present for filing in a public record or a private record generally available to the public a false lien or encumbrance against the real or personal property of a public officer or public employee on account of the performance of the public officer or public employee's official duties, knowing or having reason to know that the lien or encumbrance is false or contains a materially false, fictitious, or fraudulent statement or representation. Any person who violates this subsection shall be guilty of a Class I felony.

(b) In the case of a lien or encumbrance presented to the register of deeds for filing, if the register of deeds has a reasonable suspicion that the lien or encumbrance is false, the register of deeds may refuse to file the lien or encumbrance. Neither the register of deeds nor any other entity shall be liable for filing or refusing to file a lien or encumbrance under this section. If the filing of the lien or encumbrance is denied, the register of deeds shall allow the filing of a Notice of Denied Lien or Encumbrance Filing on a form adopted by the Secretary of State. The Notice of Denied Lien or Encumbrance Filing shall not itself constitute a lien or encumbrance. If the filing of the lien or encumbrance is denied, any interested person may file a special proceeding in the county where the filing was denied within ten (10) business days of the filing of the Notice of Denied Lien or Encumbrance Filing asking the court to find that the proposed filing has a statutory or contractual basis and to order that the document be filed. If, after hearing, upon a minimum of five (5) days' notice and opportunity to be heard to all interested persons and all persons claiming an ownership interest in the property, the court finds that there is a statutory or contractual basis for the proposed filing, the court shall order the document filed. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the time of the filing of the Notice of Denied Lien or Encumbrance Filing. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall order that the proposed filing is null and void and that it shall not be filed, indexed, or recorded and a copy of that order shall be filed by the register of deeds that originally denied the filing. The review by the judge under this subsection shall not be deemed a finding as to any underlying claim of the parties involved. If a special proceeding is not filed under this subsection within ten (10) business days of the filing of the Notice of Denied Lien or Encumbrance Filing, the lien or encumbrance is deemed null and void.

(c) Upon being presented with an order duly issued by a court of this State declaring that a filed lien or encumbrance is false, and therefore null and void, the register of deeds that received the filing, in addition to filing the order, shall conspicuously mark on the first page of the original record previously filed the following statement: "THE CLAIM ASSERTED IN THIS DOCUMENT IS FALSE AND IS NOT PROVIDED FOR BY THE GENERAL LAWS OF THIS STATE.

(d) In addition to any criminal penalties provided for in this section, a violation of this section shall constitute a violation of G.S. 75-1.1.

(e) Subsections (b) and (c) of this section shall not apply to filings under Article 9 of Chapter 25 of the General Statutes or under Chapter 44A of the General Statutes."

SECTION 5. G.S. 14-118.12 reads as rewritten:

"§ 14-118.12. Residential mortgage fraud.

(a) A person is guilty of residential mortgage fraud when, for financial gain and with the intent to defraud, that person does any of the following:

- (1) Knowingly makes or attempts to make any material misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, mortgage broker, borrower, or any other person or entity that is involved in the mortgage lending process relies on it.
- (2) Knowingly uses or facilitates or attempts to use or facilitate the use of any misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, borrower, or any other person or entity that is involved in the mortgage lending process relies on it.
- (3) Receives or attempts to receive proceeds or any other funds in connection with a residential mortgage closing that the person knew, or should have known, resulted from a violation of subdivision (1) or (2) of this subsection.
- (4) Conspires or solicits another to violate any of the provisions of subdivision (1), (2), or (3) of this subsection.
- (5) Knowingly files in a public record or a private record generally available to the public a document falsely claiming that a mortgage loan has been satisfied, discharged, released, revoked, or terminated or is invalid.

...."

SECTION 6. G.S. 14-401.19 reads as rewritten:

"§ 14-401.19. Filing false security agreements.

It shall be unlawful for any person, firm, corporation, or any other association of persons in this State, under whatever name styled, to present a record for filing under the provisions of Article 9 of Chapter 25 of the General Statutes with knowledge that the record is not related to a valid security agreement or with the intention that the record be filed for an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person. A violation of this section shall be a ~~Class 2 misdemeanor~~Class I felony."

SECTION 6.1. G.S. 44A-12.1(c) reads as rewritten:

"(c) Any person who causes or attempts to cause a claim of lien on real property or other document to be filed, knowing that the filing is not authorized by statute, or with the intent that the filing is made for an improper purpose such as to hinder, harass, or otherwise wrongfully interfere with any person, shall be guilty of a ~~Class 1 misdemeanor~~Class I felony."

SECTION 7. Section 1, 2 and 7 of this act become effective October 1, 2012, and apply to satisfactions filed on or after that date. The remainder of this act becomes effective December 1, 2012, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 4:03 p.m. on the 12th day of July, 2012.

Session Law 2012-151

S.B. 191

AN ACT TO MAKE CHANGES IN GOVERNANCE OF LOCAL MANAGEMENT ENTITIES WITH RESPECT TO THE IMPLEMENTATION OF STATEWIDE EXPANSION OF THE 1915(B)/(C) MEDICAID WAIVER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-115(a) reads as rewritten:

"§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and cities.

(a) A county shall provide mental health, developmental disabilities, and substance abuse services in accordance with rules, policies, and guidelines adopted pursuant to statewide restructuring of the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver through an area authority or through a county program established pursuant to G.S. 122C-115.1. Beginning July 1, 2012, the catchment area of an area authority or a county program shall contain a minimum population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority or a county program shall contain a minimum population of at least 500,000. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control."

SECTION 2.(a) G.S. 122C-116 reads as rewritten:

"§ 122C-116. Status of area authority; status of consolidated human services agency.

(a) An area authority is a local political subdivision of the State ~~except that a single county area authority is considered a department of the county in which it is located for the purposes of Chapter 159 of the General Statutes.~~State.

(b) A consolidated human services agency is a department of the county."

SECTION 2.(b) G.S. 122C-115.1(i) reads as rewritten:

"(i) Except as otherwise specifically provided, this Chapter applies to counties that provide mental health, developmental disabilities, and substance abuse services through a county program. As used in the applicable sections of this Article, the terms "area authority", "area program", and "area facility" shall be construed to include "county program".~~The following sections of this Article do not apply to county programs:~~

- (1) ~~G.S. 122C 115.3, 122C 116, 122C 117, and 122C 118.1.~~
- (2) ~~G.S. 122C 119 and G.S. 122C 119.1.~~
- (3) ~~G.S. 122C 120 and G.S. 122C 121.~~
- (4) ~~G.S. 122C 127.~~
- (5) ~~G.S. 122C 147.~~
- (6) ~~G.S. 122C 152 and G.S. 122C 153.~~
- (7) ~~G.S. 122C 156.~~
- (8) ~~G.S. 122C 158."~~

SECTION 3.(a) G.S. 122C-118.1 reads as rewritten:

"§ 122C-118.1. Structure of area board.

(a) ~~An area board shall have no fewer than 11 and no more than 25 members. However, the area board for a multicounty area authority consisting of eight or more counties may have up to 30 members. In a single county area authority, the members shall be appointed by the board of county commissioners. Except as otherwise provided, in areas consisting of more than one county, each board of county commissioners within the area shall appoint one commissioner as a member of the area board. These members shall appoint the other members. The boards of county commissioners within the multicounty area shall have the option to appoint the members of the area board in a manner other than as required under this section by adopting a resolution to that effect. The boards of county commissioners in a multicounty area authority shall indicate in the business plan each board's method of appointment of the area board members in accordance with G.S. 122C 115.2(b). These appointments shall take into~~

~~account sufficient citizen participation, representation of the disability groups, and equitable representation of participating counties. Individuals appointed to the board shall include two individuals with financial expertise, an individual with expertise in management or business, and an individual representing the interests of children. A member of the board may be removed with or without cause by the initial appointing authority. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term. An area board shall have no fewer than 11 and no more than 21 voting members. The board of county commissioners, or the boards of county commissioners within the area, shall appoint members consistent with the requirements provided in subsection (b) of this section. The process for appointing members shall ensure participation from each of the constituent counties of a multicounty area authority. If the board or boards fail to comply with the requirements of subsection (b) of this section, the Secretary shall appoint the unrepresented category. The boards of county commissioners within a multicounty area with a catchment population of at least 1,250,000 shall have the option to appoint members of the area board in a manner or with a composition other than as required by this section by each county unanimously adopting a resolution to that effect and receiving written approval from the Secretary by January 1, 2013. A member of the board may be removed with or without cause by the initial appointing authority. The area board may declare vacant the office of an appointed member who does not attend three consecutive scheduled meetings without justifiable excuse. The chair of the area board shall notify the appropriate appointing authority of any vacancy. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term.~~

(b) ~~Except as otherwise~~ Within the maximum membership provided in this subsection, ~~not more than fifty percent (50%) of~~ subsection (a) of this section, the ~~members~~ membership of the area board shall reside within the catchment area and ~~represent the following:~~ be composed as follows:

- ~~(1) A physician licensed under Chapter 90 of the General Statutes to practice medicine in North Carolina who, when possible, is certified as having completed a residency in psychiatry. At least one member who is a current county commissioner.~~
- ~~(2) A clinical professional from the fields of mental health, developmental disabilities, or substance abuse. The chair of the local Consumer and Family Advisory Committee (CFAC) or the chair's designee.~~
- ~~(3) At least one family member or individual from a citizens' organization composed primarily of consumers or their family members, of the local CFAC, as recommended by the local CFAC, representing the interests of individuals: the following:~~
 - ~~a. With~~ Individuals with mental ~~illness;~~ illness.
 - ~~In~~ Individuals in recovery from ~~addiction;~~ or addiction.
 - ~~With~~ Individuals with intellectual or other developmental disabilities.
- ~~(4) At least one openly declared consumer member of the local CFAC, as recommended by the local CFAC, representing the interests of the following:~~
 - ~~With~~ Individuals with mental ~~illness;~~ illness.
 - ~~With~~ Individuals with intellectual or other developmental ~~disabilities;~~ or disabilities.
 - ~~In~~ Individuals in recovery from addiction.
- ~~(5) An individual with health care expertise and experience in the fields of mental health, intellectual or other developmental disabilities, or substance abuse services.~~

- (6) An individual with health care administration expertise consistent with the scale and nature of the managed care organization.
- (7) An individual with financial expertise consistent with the scale and nature of the managed care organization.
- (8) An individual with insurance expertise consistent with the scale and nature of the managed care organization.
- (9) An individual with social services expertise and experience in the fields of mental health, intellectual or other developmental disabilities, or substance abuse services.
- (10) An attorney with health care expertise.
- (11) A member who represents the general public and who is not employed by or affiliated with the Department of Health and Human Services, as appointed by the Secretary.
- (12) The President of the LME/MCO Provider Council or the President's designee to serve as a nonvoting member who shall participate only in Board activities that are open to the public.
- (13) An administrator of a hospital providing mental health, developmental disabilities, and substance abuse emergency services to serve as a nonvoting member who shall participate only in Board activities that are open to the public.

~~An~~ Except as provided in subdivisions (12) and (13) of this subsection, an individual that contracts with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services may not serve on the board of the LME for the period during which the contract for services is in effect. No person registered as a lobbyist under Chapter 120C of the General Statutes shall be appointed to or serve on an area authority board. Of the members described in subdivisions (2) through (4) of this subsection, the boards of county commissioners shall ensure there is at least one member representing the interest of each of the following: (i) individuals with mental illness, (ii) individuals with intellectual or other developmental disabilities, and (iii) individuals in recovery from addiction.

(c) The board of county commissioners may elect to appoint a member of the area authority board to fill concurrently no more than two categories of membership if the member has the qualifications or attributes of the two categories of membership.

(d) Any member of an area board who is a county commissioner serves on the board in an ex officio capacity at the pleasure of the initial appointing authority, for a term not to exceed the earlier of three years or the member's service as a county commissioner. Any member of an area board who is a county manager serves on the board at the pleasure of the initial appointing authority, for a term not to exceed the earlier of three years or the duration of the member's employment as a county manager. The terms of ~~the other~~ members on the area board shall be for three years, except that upon the initial formation of an area board in compliance with subsection (a) of this section, one-third shall be appointed for one year, one-third for two years, and all remaining members for three years. ~~Members, other than county commissioners and county managers, Members shall not be appointed for more than two~~ three consecutive terms. ~~Board members serving as of July 1, 2006, may remain on the board for one additional term. This subsection applies to all area authority board members regardless of the procedure used to appoint members under subsection (a) of this section.~~

(e) Upon request, the board shall provide information pertaining to the membership of the board that is a public record under Chapter 132 of the General Statutes."

SECTION 3.(b) All area boards shall meet the requirements of G.S. 122C-118.1, as amended by subsection (a) of this section, no later than October 1, 2013.

SECTION 4.(a) G.S. 122C-119.1 reads as rewritten:

"§ 122C-119.1. **Area Authority board members' training.**

All members of the governing body for an area authority shall receive initial orientation on board members' responsibilities and annual training provided by the Department ~~in~~ which shall

include fiscal management, budget development, and fiscal accountability. A member's refusal to be trained shall be grounds for removal from the board."

SECTION 4.(b) The North Carolina Department of Health and Human Services, in cooperation with the School of Government and the local management entities, shall develop a standardized core curriculum for the training described in subsection (a) of this section.

SECTION 5. G.S. 122C-170(b) reads as rewritten:

"Part 4A. Consumer and Family Advisory Committees.

"§ **122C-170. Local Consumer and Family Advisory Committees.**

...
(b) Each of the disability groups shall be equally represented on the CFAC, and the CFAC shall reflect as closely as possible the racial and ethnic composition of the catchment area. The terms of members shall be three years, and no member may serve more than ~~two~~three consecutive terms. The CFAC shall be composed exclusively of:

- (1) Adult consumers of mental health, developmental disabilities, and substance abuse services.
- (2) Family members of consumers of mental health, developmental disabilities, and substance abuse services.

...."

SECTION 6. Area authorities may add one or more additional counties to their existing catchment area by agreement of a majority of the existing member counties.

SECTION 7.(a) Beginning July 1, 2012, and for a period of two years thereafter, the Department of Health and Human Services shall not approve any county's request to withdraw from a multicounty area authority operating under the 1915(b)/(c) Medicaid Waiver. Not later than January 1, 2014, the Secretary shall adopt rules to establish a process for county disengagement that shall at a minimum ensure the following:

- (1) Provisions of service are not disrupted by the disengagement.
- (2) The disengaging county is either in compliance or plans to merge with an area authority that is in compliance with population requirements provided in G.S. 122C-155(a).
- (3) The timing of the disengagement is accounted for and does not conflict with setting capitation rates.
- (4) Adequate notice is provided to the affected counties, the Department of Health and Human Services, and the General Assembly.
- (5) Provisions for distribution of any real property no longer within the catchment area of the area authority.

SECTION 7.(b) G.S. 122C-112.1 is amended by adding a new subdivision to read:

"(38) Adopt rules establishing a procedure for single-county disengagement from an area authority operating under a 1915(b)/(c) Medicaid Waiver."

SECTION 8. G.S. 122C-147(c) reads as rewritten:

"§ **122C-147. Financing and title of area authority property.**

...
(c) All real property purchased for use by the area authority shall be provided by local or federal funds unless otherwise allowed under subsection (b) of this section or by specific capital funds appropriated by the General Assembly. The title to this real property and the authority to acquire it is held by the ~~county where the property is located. The authority to hold title to real property and the authority to acquire it, including the area authority's authority to finance its acquisition by an installment contract under G.S. 160A-20, may be held by the area authority or by the contracting governmental entity with the approval of the board or boards of commissioners of all the counties that comprise the area authority. The approval of a board of county commissioners shall be by resolution of the board and may have any necessary or proper conditions, including provisions for distribution of the proceeds in the event of disposition of the property by the area authority.~~ area authority. Real property may not be acquired by means of an installment contract under G.S. 160A-20 unless the Local Government

Commission has approved the acquisition. No deficiency judgment may be rendered against any unit of local government in any action for breach of a contractual obligation authorized by this subsection, and the taxing power of a unit of local government is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this subsection.

...."

SECTION 9.(a) G.S. 122C-117 reads as rewritten:

"§ 122C-117. Powers and duties of the area authority.

(a) The area authority shall do all of the following:

...

(7) Appoint an area director in accordance with G.S. 122C-121(d).~~The appointment is subject to the approval of the board of county commissioners except that one or more boards of county commissioners may waive its authority to approve the appointment. The appointment shall be based on a selection by a search committee of the area authority board. The search committee shall include consumer board members, a county manager, and one or more county commissioners. The Secretary shall have the option to appoint one member to the search committee.~~

...

(17) Have the authority to borrow money with the approval of the Local Government Commission.

...

(c) Within 30 days of the end of each quarter of the fiscal year, the area director and finance officer of the area authority shall provide the quarterly report of the area authority to the county finance officer. The county finance officer shall provide the quarterly report to the board of county commissioners at the next regularly scheduled meeting of the board. The clerk of the board of commissioners shall notify the area director and the county finance officer if the quarterly report required by this subsection has not been submitted within the required period of time. This information shall be ~~presented in a format prescribed by the county. At least twice a year, this information shall be presented in person and shall be read into the minutes of the meeting at which it is presented. In addition, the area director or finance officer of the area authority shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners.~~delivered to the county and, at the request of the board of county commissioners, may be presented in person by the area director or the director's designee.

...."

SECTION 9.(b) G.S. 122C-115.2 is amended by adding a new subsection to read:

"(e) The Secretary may waive any requirements of this section that are inconsistent with or incompatible with contracts entered into between the Department and the area authority for the management responsibilities for the delivery of services for individuals with mental illness, intellectual or other developmental disabilities, and substance abuse disorders under a 1915(b)/(c) Medicaid Waiver."

SECTION 10. Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding a new section to read:

"§ 122C-126.1. **Confidentiality of competitive health care information.**

(a) For the purposes of this section, competitive health care information means information relating to competitive health care activities by or on behalf of the area authority. Competitive health care information shall be confidential and not a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of an area authority shall be a public record, unless otherwise exempted by law, or the contract contains competitive health care information, the determination of which shall be as provided in subsection (b) of this section.

(b) If an area authority is requested to disclose any contract that the area authority believes in good faith contains or constitutes competitive health care information, the area authority may either redact the portions of the contract believed to constitute competitive health care information prior to disclosure or, if the entire contract constitutes competitive health care information, refuse disclosure of the contract. The person requesting disclosure of the contract may institute an action pursuant to G.S. 132-9 to compel disclosure of the contract or any redacted portion thereof. In any action brought under this subsection, the issue for decision by the court shall be whether the contract, or portions of the contract withheld, constitutes competitive health care information, and in making its determination, the court shall be guided by the procedures and standards applicable to protective orders requested under Rule 26(c)(7) of the Rules of Civil Procedure. Before rendering a decision, the court shall review the contract in camera and hear arguments from the parties. If the court finds that the contract constitutes or contains competitive health care information, the court may either deny disclosure or may make such other appropriate orders as are permitted under Rule 26(c) of the Rules of Civil Procedure.

(c) Nothing in this section shall be deemed to prevent the Attorney General, the State Auditor, or an elected public body, in closed session, which has responsibility for the area authority, from having access to this confidential information. The disclosure to any public entity does not affect the confidentiality of the information. Members of the public entity shall have a duty not to further disclose the confidential information."

SECTION 11.(a) G.S. 126-5(a) reads as rewritten:

"§ 126-5. Employees subject to Chapter; exemptions.

(a) The provisions of this Chapter shall apply to:

- (1) All State employees not herein exempt, and
- (2) All employees of the following local entities:
 - a. Area mental health, developmental disabilities, and substance abuse authorities, except as otherwise provided in Chapter 122C of the General Statutes.
 - b. Local social services departments.
 - c. County health departments and district health departments.
 - d. Local emergency management agencies that receive federal grant-in-aid funds.

An employee of a consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered an employee of an entity listed in this subdivision.

- (3) County employees not included under subdivision (2) of this subsection as the several boards of county commissioners may from time to time determine."

SECTION 11.(b) G.S. 122C-154 reads as rewritten:

"§ 122C-154. Personnel.

Employees under the direct supervision of the area director are employees of the area authority. For the purpose of personnel administration, Chapter 126 of the General Statutes applies unless otherwise provided in this Article. Employees appointed by the county program director are employees of the county. In a multicounty program, employment of county program staff shall be as agreed upon in the interlocal agreement adopted pursuant to G.S. 122C-115.1. Notwithstanding G.S. 126-9(b), an employee of an area authority may be paid a salary that is in excess of the salary ranges established by the State Personnel Commission. Any salary that is higher than the maximum of the applicable salary range shall be supported by documentation of comparable salaries in comparable operations within the region and shall also include the specific amount the board proposes to pay the employee. The area board shall not authorize any salary adjustment that is above the normal allowable salary range without obtaining prior approval from the Director of the Office of State Personnel."

SECTION 11.(c) G.S. 122C-121(a1) reads as rewritten:

"(a1) The area board shall establish the area director's salary under Article 3 of Chapter 126 of the General Statutes. ~~An area board may request an adjustment to the salary ranges under G.S. 126-9(b). The request shall include specific information supporting the need for the adjustment, including comparative salary and patient caseload data for other LMEs, and shall also include the specific amount the area board proposes to pay the director. The area board shall not request a salary adjustment that is more than ten percent (10%) above the normal allowable salary range as determined by the State Personnel Commission.~~ Notwithstanding G.S. 126-9(b), an area director may be paid a salary that is in excess of the salary ranges established by the State Personnel Commission. Any salary that is higher than the maximum of the applicable salary range shall be supported by documentation of comparable salaries in comparable operations within the region and shall also include the specific amount the board proposes to pay the director. The area board shall not authorize any salary adjustment that is above the normal allowable salary range without obtaining prior approval from the Director of the Office of State Personnel."

SECTION 12.(a) G.S. 122C-122 is repealed.

SECTION 12.(b) G.S. 35A-1202(4) reads as rewritten:

"§ 35A-1202. Definitions.

When used in the Subchapter, unless a contrary intent is indicated or the context requires otherwise:

...

(4) "Disinterested public agent" ~~means:~~means

- a. ~~The~~the director or assistant directors of a ~~local human services agency, or county department of social services.~~
- b. ~~An adult officer, agent, or employee of a State human services agency. The~~Except as provided in G.S. 35A-1213(f), the fact that a disinterested public agent is employed by a State or local human services agency that provides financial assistance, services, or treatment to a ward does not disqualify that person from being appointed as guardian.

...."

SECTION 12.(c) G.S. 35A-1213 reads as rewritten:

"§ 35A-1213. Qualifications of guardians.

(a) The clerk may appoint as guardian an adult individual, a corporation, or a disinterested public agent. The applicant may submit to the clerk the name or names of potential guardians, and the clerk may consider the recommendations of the next of kin or other persons.

(b) A nonresident of the State of North Carolina, to be appointed as general guardian, guardian of the person, or guardian of the estate of a North Carolina resident, must indicate in writing his willingness to submit to the jurisdiction of the North Carolina courts in matters relating to the guardianship and must appoint a resident agent to accept service of process for the guardian in all actions or proceedings with respect to the guardianship. Such appointment must be approved by and filed with the clerk, and any agent so appointed must notify the clerk of any change in the agent's address or legal residence. The clerk shall require a nonresident guardian of the estate or a nonresident general guardian to post a bond or other security for the faithful performance of the guardian's duties. The clerk may require a nonresident guardian of the person to post a bond or other security for the faithful performance of the guardian's duties.

(c) A corporation may be appointed as guardian only if it is authorized by its charter to serve as a guardian or in similar fiduciary capacities. A corporation shall meet the requirements outlined in Chapters 55 and 55D of the General Statutes. A corporation will provide a written copy of its charter to the clerk of superior court. A corporation contracting with a public agency to serve as guardian is required to attend guardianship training and provide verification of attendance to the contracting agency.

(d) A disinterested public agent who is appointed by the clerk to serve as guardian is authorized and required to do so; provided, if at the time of the appointment or any time subsequent thereto the disinterested public agent believes that his role or the role of his agency in relation to the ward is such that his service as guardian would constitute a conflict of interest, or if he knows of any other reason that his service as guardian may not be in the ward's best interest, he shall bring such matter to the attention of the clerk and seek the appointment of a different guardian. A disinterested public agent who is appointed as guardian shall serve in that capacity by virtue of his office or employment, which shall be identified in the clerk's order and in the letters of appointment. When the disinterested public agent's office or employment terminates, his successor in office or employment, or his immediate supervisor if there is no successor, shall succeed him as guardian without further proceedings unless the clerk orders otherwise.

(e) Notwithstanding any other provision of this section, an employee of a treatment facility, as defined in G.S. 35A-1101(16), may not serve as guardian for a ward who is an inpatient in or resident of the facility in which the employee works; provided, this subsection shall not apply to or affect the validity of any appointment of a guardian that occurred before October 1, 1987.

(f) An individual who contracts with or is employed by an entity that contracts with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services may not serve as a guardian for a ward for whom the individual or entity is providing these services, unless the individual is a parent of that ward. The prohibition provided in this subsection shall not apply to a member of the ward's immediate family who is under contract with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services and is serving as a guardian as of January 1, 2013. For the purposes of this subsection, the term "immediate family" is defined as a spouse, child, sibling, parent, grandparent, or grandchild. The term also includes stepparents, stepchildren, stepsiblings, and adoptive relationships."

SECTION 12.(d) G.S. 35A-1292(a) reads as rewritten:

"§ 35A-1292. Resignation.

(a) Any guardian who wishes to resign ~~may apply in writing to the clerk,~~ shall file a motion with the clerk setting forth the circumstances of the case. If a general guardian or guardian of the estate, at the time of making the application, also exhibits his final account for settlement, and if the clerk is satisfied that the guardian has fully accounted, the clerk may accept the resignation of the guardian and discharge him and appoint a successor ~~guardian, but the guardian.~~ guardian, but the guardian. The guardian so discharged and his sureties are still liable in relation to all matters connected with the guardianship before the discharge-discharge and shall continue to ensure that the ward's needs are met until the clerk officially appoints a successor. The guardian shall attend the hearing to modify the guardianship, if physically able."

SECTION 12.(e) In order to achieve continuity of care and services, any successor guardian shall make diligent efforts to continue existing contracts entered into under the authority of G.S. 122C-122 where consistent with the best interest of the ward as required by Chapter 35A of the General Statutes.

SECTION 13.(a) Section 1(a)(3) of S.L. 2011-264 reads as rewritten:

"(3) ~~Designate a single entity~~ an area authority for mental health, developmental disabilities, and substance abuse services to assume responsibility for all aspects of Waiver management. The following operational models are acceptable options for Local Management Entity (LME) applicants:acceptable:

- a. Merger model: A single larger LME is formed from the merger of two or more LMEs.
- b. Interlocal agreement among LMEs: A single LME is identified as the leader for all Waiver operations, financial management, and accountability for performance measures."

SECTION 13.(b) Section 1(c) of S.L. 2011-264 reads as rewritten:

"**SECTION 1.(c)** The Department shall require LMEs that have not been approved by the Department to operate a 1915(b)/(c) Medicaid Waiver by January 1, 2013, to merge with or be aligned through an interlocal agreement with an LME that has been approved by the Department to operate a 1915(b)/(c) Medicaid Waiver. If any LME fails to comply with this requirement, or fails to meet performance requirements of an approved contract with the Department to operate a 1915(b)/(c) Medicaid Waiver, the Department shall assign responsibility for management of the 1915(b)/(c) Medicaid Waiver on behalf of the noncompliant LME to an LME that is successfully operating the Waiver and successfully meeting performance requirements of the contract with the Department. Those LMEs approved to operate the 1915(b)/(c) Medicaid Waiver under an interlocal agreement must have a single LME entity designated as responsible for all aspects of Waiver operations and solely responsible for meeting contract requirements."

SECTION 14. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 4:05 p.m. on the 12th day of July, 2012.

Session Law 2012-152**H.B. 462**

AN ACT TO LIMIT USE OF CONTINGENT-BASED CONTRACTS FOR AUDIT OR ASSESSMENT PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-243.1 is amended by adding a new subsection to read:

"(a1) In determining the liability of any person for a tax, the Secretary may not employ an agent who is compensated in whole or in part by the State for services rendered on a contingent basis or any other basis related to the amount of tax, interest, or penalty assessed against or collected from the person."

SECTION 2. G.S. 105-299 reads as rewritten:**"§ 105-299. Employment of experts.**

The board of county commissioners may employ appraisal firms, mapping firms or other persons or firms having expertise in one or more of the duties of the assessor to assist the assessor in the performance of these duties. The county may also assign to county agencies, or contract with State or federal agencies for, any duties involved with the approval or auditing of use-value accounts. The county may make available to these persons any information it has that will facilitate the performance of a contract entered into pursuant to this section. Persons receiving this information are subject to the provisions of G.S. 105-289(e) and G.S. 105-259 regarding the use and disclosure of information provided to them by the county. Any person employed by an appraisal firm whose duties include the appraisal of property for the county must be required to demonstrate that he or she is qualified to carry out these duties by achieving a passing grade on a comprehensive examination in the appraisal of property administered by the Department of Revenue. In the employment of these firms, primary consideration must be given to the firms registered with the Department of Revenue pursuant to G.S. 105-289(i). A copy of the specifications to be submitted to potential bidders and a copy of the proposed contract may be sent by the board to the Department of Revenue for review before the invitation or acceptance of any bids. Contracts for the employment of these firms or persons are contracts for personal services and are not subject to the provisions of Article 8, Chapter 143, of the General Statutes. If the board of county commissioners employs any person or firm to assist the assessor in the performance of the assessor's duties, the person or firm may not be compensated, in whole or in part, on a contingent fee basis or any other similar method that may impair the assessor's independence or the perception of the assessor's independence by the public."

SECTION 3. Chapter 116B-8 reads as rewritten:**"§ 116B-8. Employment of persons with specialized skills or knowledge.**

The Treasurer may employ the services of such independent consultants, real estate managers and other persons possessing specialized skills or knowledge as the Treasurer deems necessary or appropriate for the administration of this Chapter, including valuation, maintenance, upkeep, management, sale and conveyance of property and determination of sources of unreported abandoned property. The Treasurer may also employ the services of an attorney to perform a title search or to provide an accurate legal description of real property which the Treasurer has reason to believe may have escheated. Persons whose services are employed by the Treasurer pursuant to this section to determine sources and amounts of unreported property are subject to the same policies, including confidentiality and ethics, as employees of the Department of State Treasurer assigned to determine sources and amounts of unreported property. ~~Compensation of persons whose services are employed pursuant to this section on a contingent fee basis shall be limited to twelve percent (12%) of the final assessment.~~ If the Treasurer contracts with any other person to conduct an audit under this Chapter, the audit shall not be performed on a contingent fee basis or any other similar method that may impair an auditor's independence or the perception of the auditor's independence by the public. Notwithstanding the preceding sentence, the Treasurer may contract with any other person on a contingent fee basis to conduct audits of life insurance companies where the audit is being conducted for the purpose of identifying unclaimed death benefits or to conduct audits of holders of unredeemed bond funds."

SECTION 3.1. G.S. 116B-6(h) reads as rewritten:

"(h) Expenditures. – The Treasurer may expend the funds in the Escheat Fund, other than funds in the Escheat Account, for the payment of claims for refunds to owners, holders and claimants under G.S. 116B-4; for the payment of costs of maintenance and upkeep of abandoned or escheated property; costs of preparing lists of names of owners of abandoned property to be furnished to clerks of superior court; costs of notice and publication; costs of appraisals; fees of persons employed pursuant to G.S. 116B-8 costs involved in determining whether a decedent died without heirs; fees of persons employed pursuant to G.S. 116B-8 to conduct audits; costs of a title search of real property that has escheated; and costs of auction or sale under this Chapter. All other costs, including salaries of personnel, necessary to carry out the duties of the Treasurer under this Chapter, shall be appropriated from the funds of the Escheat Fund pursuant to the provisions of Article 1, Chapter 143 of the General Statutes."

SECTION 4. G.S. 153A-146 reads as rewritten:**"§ 153A-146. General power to impose taxes.**

A county may impose taxes only as specifically authorized by act of the General Assembly. Except when the statute authorizing a tax provides for penalties and interest, the power to impose a tax includes the power to impose reasonable penalties for failure to declare tax liability, if required, and to impose penalties or interest for failure to pay taxes lawfully due within the time prescribed by law or ordinance. In determining the liability of any taxpayer for a tax, a county may not employ an agent who is compensated in whole or in part by the county for services rendered on a contingent basis or any other basis related to the amount of tax, interest, or penalty assessed against or collected from the taxpayer. The power to impose a tax also includes the power to provide for its administration in a manner not inconsistent with the statute authorizing the tax."

SECTION 5. G.S. 160A-206 reads as rewritten:**"§ 160A-206. General power to impose taxes.**

A city shall have power to impose taxes only as specifically authorized by act of the General Assembly. Except when the statute authorizing a tax provides for penalties and interest, the power to impose a tax shall include the power to impose reasonable penalties for failure to declare tax liability, if required, or to impose penalties or interest for failure to pay taxes lawfully due within the time prescribed by law or ordinance. In determining the liability of any taxpayer for a tax, a city may not employ an agent who is compensated in whole or in

part by the city for services rendered on a contingent basis or any other basis related to the amount of tax, interest, or penalty assessed against or collected from the taxpayer. The power to impose a tax shall also include the power to provide for its administration in a manner not inconsistent with the statute authorizing the tax."

SECTION 6. This act becomes effective July 1, 2012, and applies to audits, determinations of liability, and assessments contracted for on or after that date. Units of local government and the Treasurer shall not renew contingency fee based contracts for these services after July 1, 2012.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 4:07 p.m. on the 12th day of July, 2012.

Session Law 2012-153

S.B. 910

AN ACT TO CREATE THE CRIMINAL OFFENSE OF UNLAWFUL SALE, SURRENDER, OR PURCHASE OF A MINOR; TO REQUIRE THE NORTH CAROLINA CONFERENCE OF DISTRICT ATTORNEYS TO CONDUCT A STUDY TO DETERMINE WHAT OTHER MEASURES MAY BE NEEDED TO STOP THIS TYPE OF CRIMINAL ACTIVITY; TO CLARIFY WHEN, TO WHOM, AND UNDER WHAT CIRCUMSTANCES THE IDENTITY OF A PERSON REPORTING CHILD ABUSE OR NEGLECT MAY BE RELEASED; TO CLARIFY WHAT INFORMATION THE DIVISION OF SOCIAL SERVICES IS REQUIRED TO MAINTAIN IN THE FOSTER CARE REGISTRY AND UNDER WHAT CIRCUMSTANCES INFORMATION IN THE REGISTRY MAY BE WITHHELD.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-43.14. Unlawful sale, surrender, or purchase of a minor.

(a) A person commits the offense of unlawful sale, surrender, or purchase of a minor when that person, acting with willful or reckless disregard for the life or safety of a minor, participates in any of the following: the acceptance, solicitation, offer, payment, or transfer of any compensation, in money, property, or other thing of value, at any time, by any person in connection with the unlawful acquisition or transfer of the physical custody of a minor, except as ordered by the court. This section does not apply to actions that are ordered by a court, authorized by statute, or otherwise lawful.

(b) A person who violates this section is guilty of a Class F felony and shall pay a minimum fine of five thousand dollars (\$5,000). For each subsequent violation, a person is guilty of a Class F felony and shall pay a minimum fine of ten thousand dollars (\$10,000).

(c) A minor whose parent, guardian, or custodian has sold or attempted to sell a minor in violation of this Article is an abused juvenile as defined by G.S. 7B-101(1). The court may place the minor in the custody of the Department of Social Services or with such other person as is in the best interest of the minor.

(d) A violation of this section is a lesser included offense of G.S. 14-43.11.

(e) When a person is convicted of a violation of this section, the sentencing court shall consider whether the person is a danger to the community and whether requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of that Article as stated in G.S. 14-208.5. If the sentencing court rules that the person is a danger to the community and that the person shall register, then an order shall be entered requiring the person to register."

SECTION 2. G.S. 7B-101(1) reads as rewritten:

"(1) Abused juveniles. – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:

- a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
- b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
- c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
- d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree rape, as provided in G.S. 14-27.2; rape of a child by an adult offender, as provided in G.S. 14-27.2A; second degree rape as provided in G.S. 14-27.3; first-degree sexual offense, as provided in G.S. 14-27.4; sexual offense with a child by an adult offender, as provided in G.S. 14-27.4A; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; unlawful sale, surrender, or purchase of a minor, as provided in G.S. 14-43.14; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; promoting the prostitution of the juvenile as provided in G.S. 14-190.18; and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1;
- e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others; or
- f. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the juvenile."

SECTION 3. G.S. 14-208.6(4) reads as rewritten:

- "(4) 'Reportable conviction' means:
- a. A final conviction for an offense against a minor, a sexually violent offense, or an attempt to commit any of those offenses unless the conviction is for aiding and abetting. A final conviction for aiding and abetting is a reportable conviction only if the court sentencing the individual finds that the registration of that individual under this Article furthers the purposes of this Article as stated in G.S. 14-208.5.
 - b. A final conviction in another state of an offense, which if committed in this State, is substantially similar to an offense against a minor or a sexually violent offense as defined by this section, 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.
- e. A final conviction for a violation of G.S. 14-43.14, only if the court sentencing the individual issues an order pursuant to G.S. 14-43.14(e) requiring the individual to register."

SECTION 4. G.S. 14-322.3 reads as rewritten:

"§ 14-322.3. **Abandonment of an infant under seven days of age.**

When a parent abandons an infant less than seven days of age by voluntarily delivering the infant as provided in G.S. 7B-500(b) or G.S. 7B-500(d) and does not express an intent to return for the infant, that parent shall not be prosecuted under ~~G.S. 14-322~~ ~~or G.S. 14-322.1.~~ G.S. 14-322, 14-322.1, or 14-43.14."

SECTION 5. The North Carolina Conference of District Attorneys shall conduct a study of additional measures that may be taken to stop criminal activities that involve the sale of children. In its study, the North Carolina Conference of District Attorneys shall consider the measures taken by other states to address this type of criminal activity. The North Carolina Conference of District Attorneys shall submit a final written report of its findings and recommendations, including any additional legislative proposals, regarding this issue to the 2013 General Assembly by January 30, 2013.

SECTION 6. G.S. 7B-302(a1) reads as rewritten:

"(a1) All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department, ~~that~~ except under the following circumstances:

- (1) The department shall disclose confidential information to any federal, State, or local government entity or its agent in order to protect a juvenile from abuse or neglect. Any confidential information disclosed to any federal, State, or local government entity or its agent under this subsection shall remain confidential with the other government entity or its agent and shall only be redisclosed for purposes directly connected with carrying out that entity's mandated responsibilities.
- (1a) The department shall disclose confidential information regarding the identity of the reporter to any federal, State, or local government entity or its agent with a court order. The department may only disclose confidential information regarding the identity of the reporter to a federal, State, or local government entity or its agent without a court order when the entity demonstrates a need for the reporter's name to carry out the entity's mandated responsibilities.
- (2) The information may be examined upon request by the juvenile's guardian ad litem or the juvenile, including a juvenile who has reached age 18 or been emancipated.
- (3) A district or superior court judge of this State presiding over a civil matter in which the department of social services is not a party may order the department to release confidential information, after providing the department with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the trial of the matter before the court and unavailable from any other source. This subdivision shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law, before ordering the release of any private medical or mental health information or records related to substance abuse or HIV status or treatment. The department of social services may surrender the requested records to the

court, for in camera review, if the surrender is necessary to make the required determinations.

- (4) A district or superior court judge of this State presiding over a criminal or delinquency matter shall conduct an in camera review prior to releasing to the defendant or juvenile any confidential records maintained by the department of social services, except those records the defendant or juvenile is entitled to pursuant to subdivision (2) of this subsection.
- (5) The department may disclose confidential information to a parent, guardian, custodian, or caretaker in accordance with G.S. 7B-700 of this Subchapter."

SECTION 7. G.S. 131D-10.6C reads as rewritten:

"§ **131D-10.6C. Maintaining a register of ~~applicants~~ licensed foster homes by the Division of Social Services.**

(a) The Division of Social Services shall keep a register of all licensed family foster and therapeutic foster ~~home applicants~~ homes. The register shall contain the following information:

- (1) The name, age, and address of each ~~applicant~~ foster parent.
- (2) ~~The date of the application.~~
- (3) The ~~applicant's foster parent's~~ supervising agency.
- (4) ~~Any~~ The number of hours of mandated training completed by the applicant and the dates of training ~~foster parent.~~
- (5) ~~Whether the applicant was licensed and the~~ The date of the initial licensure.
- (6) The current licensing period.
- (7) Any adverse licensing actions.
- (8) ~~Any other information deemed necessary by the Division of Social Services.~~

(b) The register shall be a public record under Chapter 132 of the General Statutes. However, the Division, without penalty, may withhold any specific information about a foster parent to the extent the release of the information would likely pose a threat to the health or safety of the foster parent or a foster child. A person who is denied access to information under this section may seek a court order compelling disclosure or copying in accordance with G.S. 132-9(a). Information not specified in subsection (a) of this section shall be considered confidential and not subject to disclosure."

SECTION 8. Section 5 and 8 of this act are effective when they become law. Sections 6 and 7 of this act become effective October 1, 2012. The remainder of this act becomes effective December 1, 2012, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 4:09 p.m. on the 12th day of July, 2012.

Session Law 2012-154

H.B. 54

AN ACT TO PROVIDE THAT IF A DEFENDANT HAS FOUR OR MORE PRIOR LARCENY CONVICTIONS, A SUBSEQUENT LARCENY OFFENSE IS A FELONY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-72(b) reads as rewritten:

"§ **14-72. Larceny of property; receiving stolen goods or possessing stolen goods.**

...

(b) The crime of larceny is a felony, without regard to the value of the property in question, if the larceny is any of the following:

- (1) From the person.
- (2) Committed pursuant to a violation of G.S. 14-51, 14-53, 14-54, 14-54.1, or 14-57.

- (3) Of any explosive or incendiary device or substance. As used in this section, the phrase "explosive or incendiary device or substance" shall include any explosive or incendiary grenade or bomb; any dynamite, blasting powder, nitroglycerin, TNT, or other high explosive; or any device, ingredient for such device, or type or quantity of substance primarily useful for large-scale destruction of property by explosive or incendiary action or lethal injury to persons by explosive or incendiary action. This definition shall not include fireworks; or any form, type, or quantity of gasoline, butane gas, natural gas, or any other substance having explosive or incendiary properties but serving a legitimate nondestructive or nonlethal use in the form, type, or quantity stolen.
- (4) Of any firearm. As used in this section, the term "firearm" shall include any instrument used in the propulsion of a shot, shell or bullet by the action of gunpowder or any other explosive substance within it. A "firearm," which at the time of theft is not capable of being fired, shall be included within this definition if it can be made to work. This definition shall not include air rifles or air pistols.
- (5) Of any record or paper in the custody of the North Carolina State Archives as defined by G.S. 121-2(7) and G.S. 121-2(8).
- (6) Committed after the defendant has been convicted in this State or in another jurisdiction for any offense of larceny under this section, or any offense deemed or punishable as larceny under this section, or of any substantially similar offense in any other jurisdiction, regardless of whether the prior convictions were misdemeanors, felonies, or a combination thereof, at least four times. A conviction shall not be included in the four prior convictions required under this subdivision unless the defendant was represented by counsel or waived counsel at first appearance or otherwise prior to trial or plea. If a person is convicted of more than one offense of misdemeanor larceny in a single session of district court, or in a single week of superior court or of a court in another jurisdiction, only one of the convictions may be used as a prior conviction under this subdivision; except that convictions based upon offenses which occurred in separate counties shall each count as a separate prior conviction under this subdivision."

SECTION 2. This act becomes effective December 1, 2012, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 4:11 p.m. on the 12th day of July, 2012.

Session Law 2012-155

H.B. 614

AN ACT ALLOWING REGISTERED SPONSORING ORGANIZATIONS TO ARRANGE FOR THE VOLUNTARY PROVISION OF HEALTH CARE SERVICES IN THIS STATE, RELIEVING PROVIDERS OF VOLUNTARY HEALTH CARE SERVICES FROM ADDITIONAL LICENSURE REQUIREMENTS, AND PROVIDING LIMITED PROTECTION FROM CIVIL LIABILITY TO PERSONS PROVIDING VOLUNTARY HEALTH CARE SERVICES IN ASSOCIATION WITH SPONSORING ORGANIZATIONS.

The General Assembly of North Carolina enacts:

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

"Article 1J.
"Voluntary Health Care Services Act.

"§ 90-21.100. Short title.

This Article shall be known and may be cited as the Volunteer Health Care Services Act.

"§ 90-21.101. Findings.

(a) The General Assembly makes the following findings:

- (1) Access to high-quality health care services is a concern of all persons.
- (2) Access to high-quality health care services may be limited for some residents of this State, particularly those who reside in remote, rural areas or in the inner city.
- (3) Physicians and other health care providers have traditionally worked to ensure broad access to health care services.
- (4) Many health care providers from North Carolina and elsewhere are willing to volunteer their services to address the health care needs of North Carolinians who may otherwise not be able to obtain high-quality health care services.

(b) The General Assembly further finds that it is the public policy of this State to encourage and facilitate the voluntary provision of health care services.

"§ 90-21.102. Definitions.

The following definitions apply in this Article:

- (1) Department. – The North Carolina Department of Health and Human Services.
- (2) Free clinic. – A nonprofit, 501(c)(3) tax-exempt organization organized for the purpose of providing health care services without charge or for a minimum fee to cover administrative costs and that maintains liability insurance covering the acts and omissions of the free clinic and any liability pursuant to G.S. 90-21.16(a).
- (3) Health care provider. – Any person who:
 - a. Is licensed to practice as a physician or a physician assistant under Article 1 of this Chapter.
 - b. Holds a limited volunteer license under G.S. 90-12.1A.
 - c. Holds a retired limited volunteer license under G.S. 90-12.1B.
 - d. Holds a physician assistant limited volunteer license under G.S. 90-12.4.
 - e. Holds a physician assistant retired limited volunteer license under 90-12.4B.
 - f. Is a volunteer health care professional to whom G.S. 90-21.16 applies.
 - g. Is licensed to practice dentistry under Article 2 of this Chapter.
 - h. Is licensed to practice pharmacy under Article 4A of this Chapter.
 - i. Is licensed to practice optometry under Article 6 of this Chapter.
 - j. Is licensed to practice as a registered nurse or licensed practical nurse under Article 9A of this Chapter.
 - k. Is licensed to practice as a dental hygienist under Article 16 of this Chapter.
 - l. Holds a license as a registered licensed optician under Article 17 of this Chapter.
 - m. Is licensed to practice as a physician, physician assistant, dentist, pharmacist, optometrist, registered nurse, licensed practical nurse, dental hygienist, or optician under provisions of law of another state of the United States comparable to the provisions referenced in sub-subdivisions a. through n. of this subdivision.

- (4) Sponsoring organization. – Any nonprofit organization that organizes or arranges for the voluntary provision of health care services pursuant to this Article.
- (5) Voluntary provision of health care services. – The provision of health care services by a health care provider in association with a sponsoring organization in which both of the following circumstances exist:
- a. The health care services are provided without charge to the recipient of the services or to a third party on behalf of the recipient.
 - b. The health care provider receives no compensation or other consideration in exchange for the health care services provided.
- For the purposes of this Article, the provision of health care services in non-profit community health centers, local health department facilities, free clinic facilities, or at a providers place of employment when the patient is referred by a non-profit community health referral service shall not be considered the voluntary provision of health care.

"§ 90-21.103. Limitation on duration of voluntary health care services.

A sponsoring organization duly registered in accordance with G.S. 90-21.104 may organize or arrange for the voluntary provision of health care services at a location in this State for a period not to exceed seven calendar days in any calendar year.

"§ 90-21.104. Registration, reporting, and record-keeping requirements.

(a) A sponsoring organization shall not organize or arrange for the voluntary provision of health care services in this State without first registering with the Department on a form prescribed by the Department. The registration form shall contain all of the following information:

- (1) The name of the sponsoring organization.
- (2) The name of the principal individuals who are the officers or organizational officials responsible for the operation of the sponsoring organization.
- (3) The street address, city, zip code, and county of the sponsoring organization's principal office and each of the principal individuals described in subdivision (2) of this subsection.
- (4) Telephone numbers for the principal office of the sponsoring organization and for each of the principal individuals described in subdivision (2) of this subsection.
- (5) Any additional information requested by the Department.

(b) Each sponsoring organization that applies for registration under this Article shall pay a one-time registration fee in the amount of fifty dollars (\$50.00), which it shall submit to the Department along with the completed registration form required by subsection (a) of this section. Upon approval by the Department, a sponsoring organization's registration remains valid unless revoked by the Department pursuant to subsection (f) of this section.

(c) Upon any change in the information required under subsection (a) of this section, the sponsoring organization shall notify the Department of the change, in writing, within 30 days after the effective date of the change.

(d) Each registered sponsoring organization has the duty and responsibility to do all of the following:

- (1) Except as provided in this subdivision, by no later than 14 days before a sponsoring organization initiates voluntary health care services in this State, the sponsoring organization shall submit to the Department a list containing the following information regarding each health care provider who is to provide voluntary health care services on behalf of the sponsoring organization during any part of the time period in which the sponsoring organization is authorized to provide voluntary health care services in the State:

- a. Name.
- b. Date of birth.
- c. State of licensure.
- d. License number.
- e. Area of practice.
- f. Practice address.

By no later than 3 days prior to voluntary health care services being rendered, a sponsoring organization may amend the list to add health care providers defined in G.S. 90-21.102(3)a. through G.S. 90-21.102(3)m.

- (2) Beginning April 1, 2013, submit quarterly reports to the Department identifying all health care providers who engaged in the provision of voluntary health care services in association with the sponsoring organization in this State during the preceding calendar quarter. The quarterly report must include the date, place, and type of voluntary health care services provided by each health care provider.
- (3) Maintain a list of health care providers associated with its provision of voluntary health care services in this State. For each health care provider listed, the sponsoring organization shall maintain a copy of a current license or statement of exemption from licensure or certification. For health care providers currently licensed or certified under this Chapter, the sponsoring organization may maintain a copy of the health care provider's license or certification verification obtained from a State-sponsored Internet Web site.
- (4) Maintain records of the quarterly reports and records required under this subsection for a period of five years from the date of voluntary service and make these records available upon request to any State licensing board established under this Chapter.

(e) Compliance with subsections (a) through (d) of this section is prima facie evidence that the sponsoring organization has exercised due care in its selection of health care providers.

(f) The Department may revoke the registration of any sponsoring organization that fails to comply with the requirements of this Article. A sponsoring organization may challenge the Department's decision to revoke its registration by filing a contested case under Article 3 of Chapter 150B of the General Statutes.

(g) The Department may waive any of the requirements of this section during a natural disaster or other emergency circumstance.

"§ 90-21.105. Department and licensure boards to review licensure status of volunteers.

The Department shall forward the information received from a sponsoring organization under G.S. 90-21.104(d)(1) to the appropriate licensure board within seven days after receipt. Upon receipt of any information or notice from a licensure board that a health care provider on the list submitted by the sponsoring organization pursuant to G.S. 90-21.104(d)(1) is not licensed, authorized, or in good standing, or is the subject of an investigation or pending disciplinary action, the Department shall immediately notify the sponsoring organization that the health care provider is not permitted to engage in the voluntary provision of health care services on behalf of the sponsoring organization.

"§ 90-21.106. On-site requirements.

A sponsoring organization that organizes or arranges for the provision of voluntary health care services at a location in this State shall ensure that at least one health care provider licensed to practice in this State, with access to the controlled substances reporting system established under G.S. 90-113.73, is located on the premises where the provision of voluntary health care services is occurring. In addition, every sponsoring organization shall post in a clear and conspicuous manner the following notice in the premises where the provision of voluntary health care services is occurring:

"NOTICE

Under North Carolina law, there is no liability for damages for injuries or death alleged to have occurred by reason of an act or omission in the health care provider's voluntary provision of health care services, unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the health care provider."

"§ 90-21.107. Additional licensure not required for certain volunteers.

(a) A health care provider who engages in the voluntary provision of health care services in association with a sponsoring organization for no more than seven days during any calendar year shall not be required to obtain additional licensure or authorization in connection therewith if the health care provider meets any of the following criteria:

- (1) The health care provider is duly licensed or authorized under the laws of this State to practice in the area in which the health care provider is providing voluntary health care services and is in good standing with the applicable licensing board.
- (2) The health care provider lawfully practices in another state or district in the area in which the health care provider is providing voluntary health care services and is in good standing with the applicable licensing board.

(b) This exemption from additional licensure or authorization requirements does not apply if any of the following circumstances exist:

- (1) The health care provider has been subjected to public disciplinary action or is the subject of a pending disciplinary proceeding in any state in which the health care provider is or ever has been licensed.
- (2) The health care provider's license has been suspended or revoked pursuant to disciplinary proceedings in any state in which the health care provider is or ever has been licensed.
- (3) The health care provider renders services outside the scope of practice authorized by the health care provider's license or authorization.

"§ 90-21.108. Immunity from civil liability for acts or omissions.

(a) Subject to subsection (b) of this section, a health care provider who engages in the voluntary provision of health care services at any location in this State in association with a sponsoring organization shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the health care provider's voluntary provision of health care services, unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the health care provider.

(b) The immunity from civil liability provided by subsection (a) of this section does not apply if any of the following circumstances exist:

- (1) The health care provider receives, directly or indirectly, any type of compensation, benefits, or other consideration of any nature from any person for the health care services provided.
- (2) The health care services provided are not part of the health care provider's training or assignment.
- (3) The health care services provided are not within the scope of the health care provider's license or authority.
- (4) The health care services provided are not authorized by the appropriate authorities to be performed at the location."

SECTION 2. This act becomes effective January 1, 2013.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 4:13 p.m. on the 12th day of July,

2012.

Session Law 2012-156

S.B. 426

AN ACT TO MAKE CLARIFICATIONS AND MODIFICATIONS TO THE PUBLIC FINANCE STATUTES OF NORTH CAROLINA FOR THE IMPROVEMENT OF VARIOUS FINANCING STRUCTURES AND THE TERMS AND PROVISIONS OF THE FINANCING STRUCTURES AND TO AUTHORIZE A RESOLUTION ESTABLISHING A MUNICIPAL SERVICE DISTRICT TO BECOME EFFECTIVE UPON A DATE SPECIFIED IN THE RESOLUTION IF SPECIAL OBLIGATION BONDS ARE ANTICIPATED TO BE AUTHORIZED FOR A PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-28(a) reads as rewritten:

"(a) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project or a grant project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this ~~subsection~~ subsection unless the obligation or a document related to the obligation has been approved by the Local Government Commission, in which case no certificate shall be required. The certificate, which shall be signed by the finance officer or any deputy finance officer approved for this purpose by the governing board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

(Signature of finance officer)."

Certificates in the form prescribed by G.S. 153-130 or 160-411 as those sections read on June 30, 1973, or by G.S. 159-28(b) as that section read on June 30, 1975, are sufficient until supplies of forms in existence on June 30, 1975, are exhausted.

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection."

SECTION 2. G.S. 159-54 reads as rewritten:

"§ 159-54. **The bond order.**

After or at the same time the application is filed ~~and accepted for submission to~~ with the Commission, a bond order shall be introduced before the governing board of the issuing unit. The bond order shall state:

- (1) Briefly and generally and without specification of location or material of construction, the purpose for which the bonds are to be issued, but not more than one purpose may be stated. For funding or refunding bonds a brief description of the debt, judgment, or obligation to be funded or refunded shall be sufficient.
- (2) The maximum aggregate principal amount of the bonds.
- (3) That taxes will be levied in an amount sufficient to pay the principal and interest of the bonds.
- (4) The extent, if any, to which utility or enterprise revenues are, or may be, pledged to payment of interest on and principal of the bonds pursuant to G.S. 159-47.

- (5) That a sworn statement of debt has been filed with the clerk and is open to public inspection.
- (6) If the bonds are to be approved by the voters, that the bond order will take effect when approved by the voters.
- (7) If the bonds are issued pursuant to G.S. 159-48(a)(1), (2), (3), or (5), that the bond order will take effect upon its adoption. If the bonds are to be issued pursuant to G.S. 159-48(a)(4), (6), or (7) or G.S. 159-48(b), (c), or (d) and are not to be submitted to the voters, that the bond order will take effect 30 days after its publication following adoption, unless it is petitioned to a vote of the people as provided in G.S. 159-60, and that in that event the order will take effect when approved by the voters.

When the bond order is introduced, the board shall fix the time and place for a public hearing thereon."

SECTION 3. G.S. 159-88(a) reads as rewritten:

"(a) At any time after an application is filed with the Commission ~~approves an application~~ for the issuance of revenue bonds, (i) in the case of the State, the Council of State and (ii) in the case of a municipality, the governing board of the municipality may adopt a revenue bond order pursuant to this Article."

SECTION 4. G.S. 160A-537(d) reads as rewritten:

"(d) Effective Date. – Except as otherwise provided in this subsection, the ~~The~~ resolution defining a service district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the city ~~council, except that if~~ council. If the governing body in the resolution states that general obligation bonds or special obligation bonds are anticipated to be authorized for the project, it may make the resolution effective immediately upon its ~~adoption, but~~ adoption or as otherwise provided in the resolution. However, no ad valorem tax may be levied for a partial fiscal year."

SECTION 5. If any provision of this act or its application is held invalid, the invalidity does not affect the other provisions or applications of this act that can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:15 p.m. on the 12th day of July, 2012.

Session Law 2012-157

H.B. 1105

AN ACT TO SIMPLIFY THE COLLECTION OF PROPERTY TAXES THAT ARE DUE ON PROPERTY OWNED BY CERTAIN NONPROFIT HOMEOWNERS ASSOCIATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.8 reads as rewritten:

"§ 105-277.8. **Taxation of property of nonprofit homeowners' association.**

(a) ~~The~~ Except as provided in subsection (a1) of this section, the value of real and personal property owned by a nonprofit homeowners' association shall be included in the appraisals of property owned by members of the association and shall not be assessed against the association ~~if~~ if each of the following requirements is met:

- (1) All property owned by the association is held for the use, benefit, and enjoyment of all members of the association ~~equally~~ equally.

- (2) Each member of the association has an irrevocable right to use and enjoy, on an equal basis, all property owned by the association, subject to any restrictions imposed by the instruments conveying the right or the rules, regulations, or bylaws of the ~~association; and~~ association.
- (3) Each irrevocable right to use and enjoy all property owned by the association is appurtenant to taxable real property owned by a member of the association.

The assessor may allocate the value of the association's property among the property of the association's members on any fair and reasonable basis.

(a1) The value of extraterritorial common property shall be subject to taxation only in the jurisdiction in which it is entirely contained and only in the amount of the local tax of the jurisdiction in which it is entirely contained. The value of any property taxed pursuant to this subsection, as determined by the latest schedule of values, shall not be included in the appraisals of property owned by members of the association that are referenced in subsection (a) of this section or otherwise subject to taxation. The assessor for the jurisdiction that imposes a tax pursuant to this subsection shall provide notice of the property, the value, and any other information to the assessor of any other jurisdiction so that the real properties owned by the members of the association are not subject to taxation for that value. The governing board of a nonprofit homeowners' association with property subject to taxation under this subsection shall provide annually to each member of the association the amount of tax due on the property, the value of the property, and, if applicable, the means by which the association will recover the tax due on the property from the members.

(b) As used in this section, "nonprofit homeowners' association" means a homeowners' association as defined in § 528(c) of the Internal Revenue ~~Code~~ Code, and "extraterritorial common property" means real property that is (i) owned by a nonprofit homeowners' association that meets the requirements of subdivisions (1) through (3) of subsection (a) of this section and (ii) entirely contained within a taxing jurisdiction that is different from that of the taxable real property owned by members of the association and providing the appurtenant rights to use and enjoy the association property."

SECTION 2. G.S. 47C-1-105 is amended by adding a new subsection to read:

"(e) Except as provided in subsection (c) of this section, extraterritorial common property taxed pursuant to G.S. 105-277.8 shall be assessed, pro rata, among the unit owners based on the number of the units in the association."

SECTION 3. Article 3 of Chapter 47F of the General Statutes is amended by adding a new section to read:

"§ 47F-1-105. Taxation.

Extraterritorial common property taxed pursuant to G.S. 105-277.8 shall be assessed, pro rata, among the lot owners based on the number of lots in the association."

SECTION 4. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2012. Sections 2 and 3 of this act become effective July 1, 2012, and apply to extraterritorial common property acquired on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:17 p.m. on the 12th day of July, 2012.

Session Law 2012-158

S.B. 42

AN ACT TO REQUIRE PERSONS FURNISHING LABOR OR MATERIALS IN CONNECTION WITH CERTAIN IMPROVEMENTS TO REAL PROPERTY TO GIVE WRITTEN NOTICE TO THE DESIGNATED LIEN AGENT OF THE OWNER OF THE IMPROVED REAL PROPERTY TO PRESERVE THEIR LIEN RIGHTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-7 is amended by adding new subdivisions to read:

"§ 44A-7. Definitions.

Unless the context otherwise requires in this Article:

...

(2a) Lien agent. – A title insurance company or title insurance agency designated by an owner pursuant to G.S. 44A-11.1.

...

(4a) Inspection department. – Any city or county building inspection department authorized by Chapter 160A or Chapter 153A of the General Statutes.

...

(6a) Potential lien claimant. – Any person entitled to claim a lien for improvements to real property under this Article who is subject to G.S. 44A-11.1."

SECTION 2. Article 2 of Chapter 44A of the General Statutes is amended by adding new sections to read:

"§ 44A-11.1. Lien agent; designation and duties.

(a) With regard to any improvements to real property to which this Article is applicable for which the costs of the undertaking at the time that the original building permit is issued is thirty thousand dollars \$30,000 or more, the owner shall designate a lien agent no later than the time the owner first contracts with any person to improve the real property. Provided, however, that the owner is not required to designate a lien agent for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that is used by the owner as a residence. The owner shall deliver written notice of designation to its designated lien agent by any method authorized in G.S. 44A-11.2(f), and shall include in its notice the street address, tax map lot and block number, reference to recorded instrument, or any other description that reasonably identifies the real property for the improvements to which the lien agent has been designated. Designation of a lien agent pursuant to this section does not make the lien agent an agent of the owner for purposes of receiving a Notice of Claim of Lien upon Funds or for any purpose other than the receipt of notices to the lien agent required under G.S. 44A-11.2.

(b) The lien agent shall be chosen from among the list of registered lien agents maintained by the Department of Insurance pursuant to G.S. 58-26-41.

(c) Upon receipt of written notification of designation by an owner pursuant to subsection (a) of this section, the lien agent shall have the duties as set forth in G.S. 58-26-41(b).

(d) In the event that the lien agent revokes its consent to serve as lien agent or is removed by the owner, or otherwise becomes unable or unwilling to serve before the completion of all improvements to the real property, the owner shall within three business days of notice of such event do all of the following:

(1) Designate a successor lien agent and provide written notice of designation to the successor lien agent pursuant to subsection (a) of this section.

(2) Provide the contact information for the successor lien agent to the inspection department that issued any required building permit and to any persons who requested information from the owner relating to the predecessor lien agent.

(3) Display the contact information for the successor lien agent on the building permit or attachment thereto posted on the improved property or, if no building permit was required, on a sign complying with G.S. 44A-11.2(e).

(e) Until such time as the owner has fully complied with subsection (d) of this section, notice transmitted to the predecessor lien agent shall be deemed effective notice, notwithstanding the fact that the lien agent may have resigned or otherwise become unable or unwilling to serve.

(f) Any attorney who, in connection with a transaction involving improved real property subject to this section for which the attorney is serving as the closing attorney, contacts the lien agent and requests copies of the notices received by the lien agent relating to the real property not more than five business days prior to the date of recordation of a deed or deed of trust on the real property, shall be deemed to have fulfilled the attorney's professional obligation as closing attorney to check such notices to lien agent and shall have no further duty to request that the lien agent provide information pertaining to notices received subsequently by the lien agent.

"§ 44A-11.2. Identification of lien agent; notice to lien agent; effect of notice.

(a) As used in this section, the term "contact information" shall mean the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1.

(b) Within seven days of receiving a written request by a potential lien claimant by any delivery method specified in subsection (f) of this section, the owner shall provide a notice to the potential lien claimant containing the contact information for the lien agent, by the same delivery method used by the potential lien claimant in making the request. A potential lien claimant making a request pursuant to this subsection who has not furnished labor at the site of the improvements, or who did so prior to the posting of the contact information for the lien agent pursuant to subsection (d) or (e) of this section, shall have no obligation to give notice to the lien agent under this section until the potential lien claimant has received the contact information from the owner.

(c) A contractor or subcontractor for improvements to real property subject to G.S. 44A-11.1 shall, within three business days of contracting with a lower-tier subcontractor who is not required to furnish labor at the site of the improvements, provide the lower-tier subcontractor with a written notice containing the contact information for the lien agent designated by the owner. This notice shall be given pursuant to subsection (f) of this section or may be given by including the lien agent contact information in a written subcontract entered into by, or a written purchase order issued to, the lower-tier subcontractor entitled to the notice required by this subsection. Any contractor or subcontractor who has previously received notice of the lien agent contact information, whether from the building permit, the inspections office, a notice from the owner, contractor, or subcontractor, or by any other means, and who fails to provide the lien agent contact information to the lower-tier subcontractor in the time required under this subsection, shall be liable to the lower-tier subcontractor for any actual damages incurred by the lower-tier subcontractor as a result of the failure to give notice.

(d) For any improvement to real property subject to G.S. 44A-11.1, any building permit issued pursuant to G.S. 160A-417(d) or G.S. 153A-357(e) shall be conspicuously and continuously posted on the property for which the permit is issued until the completion of all construction.

(e) For any improvement to real property subject to G.S. 44A-11.1, a sign disclosing the contact information for the lien agent shall be conspicuously and continuously posted on the property until the completion of all construction if the contact information for the lien agent is not contained in a building permit or attachment thereto posted on the property.

(f) In complying with any requirement for written notice pursuant to this section, the notice shall be addressed to the person required to be provided with the notice and shall be delivered by any of the following methods:

- (1) Certified mail, return receipt requested.
- (2) Signature confirmation as provided by the United States Postal Service.
- (3) Physical delivery and obtaining a delivery receipt from the lien agent.
- (4) Facsimile with a facsimile confirmation.
- (5) Depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2).
- (6) Electronic mail, with delivery receipt.

As used in this subsection, "delivery receipt" includes an electronic or facsimile confirmation. A return receipt or other receipt showing delivery of the notice to the addressee or written evidence that such notice was delivered by the postal service or other carrier to but not accepted by the addressee shall be prima facie evidence of receipt.

(g) When a lien agent is identified in a contract for improvements to real property consisting of a single-family residence entered into between an owner and a contractor for the improvements to the property, the contractor will be deemed to have met the requirement of notice under subsections (k) and (l) of this section on the date of the lien agent's receipt of the owner's notice of designation. The owner shall provide written notice to the lien agent containing the information pertaining to the contractor required in a notice to lien agent pursuant to subdivisions (1) through (3) of subsection (h) of this section, by any method of delivery authorized in G.S. 44A-11.2(f). The lien agent shall include the contractor in its response to any persons requesting information relating to persons who have given notice to the lien agent pursuant to this section.

(g1) When a lien agent is not identified in a contract for improvements to real property subject to G.S. 44A-11.1 entered into between an owner and a design professional, the design professional will be deemed to have met the requirement of notice under subsections (k) and (l) of this section on the date of the lien agent's receipt of the owner's designation of the lien agent. The owner shall provide written notice to the lien agent containing the information pertaining to the design professional required in a notice to lien agent pursuant to subdivisions (1) through (3) of subsection (h) of this section, by any method of delivery authorized in subsection (f) of this section. The lien agent shall include the design professional in its response to any persons requesting information relating to persons who have given notice to the lien agent pursuant to this section. For purposes of this subsection, the term "design professional" shall mean any architects, engineers, land surveyors, and landscape architects registered under Chapter 83A, 89A, or 89C of the General Statutes.

(h) The form of the notice to be given under this section shall be substantially as follows:

"NOTICE TO LIEN AGENT

- (1) Potential lien claimant's name, mailing address, telephone number, fax number (if available), and electronic mailing address (if available):

- (2) Name of the party with whom the potential lien claimant has contracted to improve the real property described below: _____
- (3) A description of the real property sufficient to identify the real property, such as the name of the project, if applicable, the physical address as shown on the building permit or notice received from the owner: _____
- (4) I give notice of my right subsequently to pursue a claim of lien for improvements to the real property described in this notice.

Dated: _____

Potential Lien Claimant"

(i) The service of the Notice to Lien Agent does not satisfy the service or filing requirements applicable to a Notice of Claim of Lien upon Funds under Part 2 of Article 2 of this Chapter.

(j) The notice to lien agent shall not be filed with the clerk of superior court. An inaccuracy in the description of the improved real property provided in the notice shall not bar a person from claiming a lien under this Article or otherwise perfecting or enforcing a claim of lien as provided in this Article, if the improved real property can otherwise reasonably be identified from the information contained in the notice.

(k) Except as otherwise provided in this section, a potential lien claimant may perfect a claim of lien on real property only if any of the following conditions is met:

(1) The lien agent identified in accordance with this section has received notice from the potential lien claimant no later than 15 days after the first furnishing of labor or materials by the potential lien claimant.

(2) Any of the following conditions is met:

a. The lien agent identified in accordance with this section has received notice from the potential lien claimant prior to the date of recordation of a conveyance of the property interest in the real property to a bona fide purchaser for value protected under G.S. 47-18 who is not an affiliate, relative, or insider of the owner.

b. The potential lien claimant has filed a claim of lien pursuant to G.S. 44A-12 prior to the recordation of a conveyance of the property interest in the real property to a bona fide purchaser for value protected under G.S. 47-18 who is not an affiliate, relative, or insider of the owner.

As used in this subdivision, the terms "affiliate," "relative," and "insider" shall have the meanings as set forth in G.S. 39-23.1.

(l) Except as otherwise provided in this section, the claim of lien on real property of a potential lien claimant that is not filed prior to the recordation of any mortgage or deed of trust shall be subordinate to the previously recorded mortgage or deed of trust unless any of the following conditions is met:

(1) The lien agent identified in accordance with this section has received notice from the potential lien claimant within 15 days after the first furnishing of labor or materials by the potential lien claimant.

(2) The lien agent identified in accordance with this section has received notice from the potential lien claimant prior to the date of recordation of the mortgage or deed of trust for the benefit of one who is not an affiliate, relative, or insider of the owner.

(m) With regard to an improvement to real property subject to G.S. 44A-11.1, a potential lien claimant shall not be required to comply with this section if the lien agent contact information is neither contained in the building permit or attachment thereto or sign posted on the improved property pursuant to subsection (d) or (e) of this section at the time when the potential lien claimant was furnishing labor at the site of the improvements, nor timely provided by the owner in response to a written request by the potential lien claimant made pursuant to subsection (b) of this section. The lien rights of a potential lien claimant who is given erroneous information by the owner regarding the identity of the lien agent will not be extinguished under subsection (k) of this section nor subordinated under subsection (l) of this section.

(n) Except as provided in subsections (k) and (l) of this section, nothing contained in this section shall affect a claim of lien upon funds pursuant to G.S. 44A-18.

(o) A potential lien claimant may provide the notice to lien agent required under this section regardless of whether the improvements for which the potential lien claimant is responsible are contracted, started, in process, or completed at the time of submitting the notice."

SECTION 3. Article 26 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-26-41. Registration as a lien agent.

(a) A title insurance company or title insurance agency authorized to do business in this State that consents to serve as a lien agent upon designation by any owner pursuant to G.S. 44A-11.1 shall register with the Department by providing the following information:

- (1) Name of the title insurance company or title insurance agency consenting to serve as a lien agent pursuant to G.S. 44A-11.1.
- (2) Physical and mailing address, facsimile number and electronic mail address to which notices may be delivered to the lien agent pursuant to G.S. 44A-11.2.
- (3) Telephone number of the lien agent.

(b) Upon receipt of the notice of designation by the owner pursuant to G.S. 44A-11.1, a lien agent shall have the duty to do all of the following:

- (1) Provide written notice acknowledging its designation as a lien agent to the owner within three business days of receipt of the owner's written notice of designation, by the same method of delivery used by the owner in delivering the notice of designation to the lien agent.
- (2) Receive notices to lien agent delivered by potential lien claimants pursuant to G.S. 44A-11.2 and copies of notices of claim of lien upon funds delivered by potential lien claimants pursuant to G.S. 44A-23(a1)(3) or G.S. 44A-23(b)(5)c.
- (3) Maintain a record of the date and time of delivery and the information contained in each notice to lien agent received.
- (4) Within three business days of receipt of a notice to lien agent by a potential lien claimant relating to improvements to real property for which the lien agent has been designated as the lien agent, provide written notice confirming receipt of the notice to the person providing such notice, by the same method used by the potential lien claimant in delivering the notice to lien agent. If the notice is received by email, the acknowledgment sent by the lien agent must include the email received, including the header showing the date and time of receipt.
- (5) Within three business days of receipt of any notice to lien agent by a potential lien claimant relating to improved real property for which the lien agent has not been designated as the lien agent, provide written notice to the potential lien claimant that it is not the designated lien agent for the improved property, by the same method used by the potential lien claimant in delivering the notice to lien agent.
- (6) Within three business days of receipt of information relating to the contractor provided by the owner pursuant to G.S. 44A-11.2(g), provide a written notice to the contractor acknowledging receipt of this information, by any method of delivery authorized in G.S. 44A-11.2(f).
- (7) Provide written notice of the potential lien claimants having delivered notice to lien agent pursuant to G.S. 44A-11.2, including the information relating to any contractor identified by the owner pursuant to G.S. 44A-11.2(g), within one business day of receiving a request from any of the following persons or their authorized agents:
 - a. An owner of the improved property.
 - b. A title insurance company or title insurance agency issuing a policy of title insurance on the improved property.
 - c. A contracted purchaser of the improved property.
 - d. A potential lien claimant.

- e. A closing attorney, lender, or settlement agent as defined in G.S. 45A-3(15) involved in a transaction involving the improved property.

In responding to a request pursuant to this subdivision, the lien agent shall include the information provided by each potential lien claimant pursuant to G.S. 44A-11.2(h)(1) and G.S. 44A-11.2(h)(2) and, if specifically requested, a copy of each notice to lien claimant received by the lien agent.

- (8) Transfer all notices received and other documentation thereof to any successor lien agent designated by the owner upon termination under G.S. 44A-11.1(d).

(c) A registered lien agent may revoke its consent and be removed from the list of lien agents by providing written notification of its revocation of consent to the Department of Insurance and to all owners by whom the lien agent has been designated pursuant to G.S. 44A-11.1 at least 30 days in advance of the effective date of its revocation of consent.

(d) For services rendered pursuant to each designation as a lien agent for improvements to real property comprising one- or two-family dwellings, a lien agent may collect a fee of not more than twenty-five dollars (\$25.00) from the owner. For services rendered pursuant to each designation as a lien agent for all other improvements to real property, the lien agent may collect a fee not to exceed fifty dollars (\$50.00) from the owner.

(e) The Department shall publish on its Web site a current list of lien agents registered pursuant to this section."

SECTION 4. G.S. 87-14(a) is amended by adding a new subdivision to read:

"§ 87-14. Regulations as to issue of building permits.

(a) Any person, firm, or corporation, upon making application to the building inspector or such other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building or other permits for the construction of any building, highway, sewer, grading, or any improvement or structure where the cost thereof is to be thirty thousand dollars (\$30,000) or more, shall, before being entitled to the issuance of a permit, satisfy the following:

- ...
- (3) Any person, firm, or corporation, upon making application to the building inspector or such other authority of any incorporated city, town, or county in North Carolina charged with the duty of issuing building permits pursuant to G.S. 160A-417(a)(1) or G.S. 153A-357(a)(1) for any improvements for which the combined cost is to be thirty thousand dollars (\$30,000) or more, other than improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the applicant uses as a residence, shall be required to provide to the building inspector or other authority the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a)."

SECTION 5. G.S. 160A-417 is amended by adding a new subsection to read:

"§ 160A-417. Permits.

(a) No person shall commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work:

- (1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure.

...

(d) No permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in

G.S. 87-15.5(7) that the applicant uses as a residence, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued."

SECTION 6. G.S. 153A-357 is amended by adding a new subsection to read:

"§ 153A-357. Permits.

(a) No person may commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work:

- (1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building.

...

(e) No permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the applicant uses as a residence, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued."

SECTION 6.1. G.S. 44A-23 is amended to read as follows:

"§ 44A-23. Contractor's claim of lien on real property; perfection of subrogation rights of subcontractor.

(a) First tier subcontractor. – A first tier subcontractor, who gives notice of claim of lien upon funds as provided in this Article, may, to the extent of this claim, enforce the claim of lien on real property of the contractor created by Part 1 of this Article. The manner of such enforcement shall be as provided by G.S. 44A-7 through 44A-16. The claim of lien on real property is perfected as of the time set forth in G.S. 44A-10 upon filing of the claim of lien on real property pursuant to G.S. 44A-12. ~~Upon the filing of the claim of lien on real property, with the notice of claim of lien upon funds attached, and the commencement of the action, no~~

(a1) No action of the contractor shall be effective to prejudice the rights of the subcontractor without his written consent, upon the occurrence of all of the following:

- (1) The subcontractor has given notice to the lien agent, if any, designated by the owner, pursuant to G.S. 44A-11.2.
- (2) The subcontractor has served a notice of claim of lien upon funds upon the owner pursuant to G.S. 44A-19(d).
- (3) The subcontractor has delivered a copy of the notice of claim of lien upon funds served upon the owner to the lien agent, if any, designated by the owner, by any method authorized in G.S. 44A-11.2(f).

(b) Second or third subcontractor. –

- (1) A second or third tier subcontractor, who gives notice of claim of lien upon funds as provided in this Article, may, to the extent of his claim, enforce the claim of lien on real property of the contractor created by Part 1 of Article 2 of the Chapter except when:

- a. The contractor, within 30 days following the date the building permit is issued for the improvement of the real property involved, posts on the property in a visible location adjacent to the posted building

permit and files in the office of the clerk of superior court in each county wherein the real property to be improved is located, a completed and signed notice of contract form and the second or third tier subcontractor fails to serve upon the contractor a completed and signed notice of subcontract form by the same means of service as described in G.S. 44A-19(d); or

- b. After the posting and filing of a signed notice of contract and the service upon the contractor of a signed notice of subcontract, the contractor serves upon the second or third tier subcontractor, within five days following each subsequent payment, by the same means of service as described in G.S. 44A-19(d), the written notice of payment setting forth the date of payment and the period for which payment is made as requested in the notice of subcontract form set forth herein.
- (2) The form of the notice of contract to be so utilized under this section shall be substantially as follows and the fee for filing the same with the clerk of superior court shall be the same as charged for filing a claim of lien on real property:

"NOTICE OF CONTRACT

"(1) Name and address of the Contractor:

"(2) Name and address of the owner of the real property at the time this Notice of Contract is recorded:

"(3) General description of the real property to be improved (street address, tax map lot and block number, reference to recorded instrument, or any other description that reasonably identifies the real property):

"(4) Name and address of the person, firm or corporation filing this Notice of Contract:

"Dated: _____

"Contractor

"Filed this the ____ day of _____, ____.

Clerk of Superior Court"

- (3) The form of the notice of subcontract to be so utilized under this section shall be substantially as follows:

"NOTICE OF SUBCONTRACT

"(1) Name and address of the subcontractor:

"(2) General description of the real property where the labor was performed or the material was furnished (street address, tax map lot and block number, reference to recorded instrument, or any description that reasonably identifies the real property):

"(3)

- "(i) General description of the subcontractor's contract, including the names of the parties thereto:

- "(ii) General description of the labor and material performed and furnished thereunder:

"(4) Request is hereby made by the undersigned subcontractor that he be notified in writing by the contractor of, and within five days following, each subsequent payment by the contractor to the first tier subcontractor for labor performed or material furnished at the improved real property within the above descriptions of such in paragraph (2) and subparagraph (3)(ii), respectively, the date payment was made and the period for which payment is made.

"Dated: _____

Subcontractor"

- (4) The manner of such enforcement shall be as provided by G.S. 44A-7 through G.S. 44A-16. The lien is perfected as of the time set forth in G.S. 44A-10 upon the filing of a claim of lien on real property pursuant to G.S. 44A-12. ~~Upon the filing of the claim of lien on real property, with the notice of claim of lien upon funds attached, and the commencement of the action, no~~
- (5) No action of the contractor shall be effective to prejudice the rights of the second or third tier subcontractor without his written consent, upon the occurrence of all of the following:
- a. The second or third tier subcontractor has given notice to the lien agent, if any, designated by the owner, pursuant to G.S. 44A-11.2.
 - b. The second or third tier subcontractor has served a notice of claim of lien upon funds upon the owner pursuant to G.S. 44A-19(d).
 - c. The second or third tier subcontractor has delivered a copy of the notice of claim of lien upon funds served upon the owner to the lien agent, if any, designated by the owner, by any method authorized in G.S. 44A-11.2(f)."

SECTION 7. This act becomes effective April 1, 2013, and applies to improvements to real property affected hereby for which the first furnishing of labor or materials at the site of the improvements is on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:19 p.m. on the 12th day of July, 2012.

Session Law 2012-159

H.B. 989

AN ACT TO LIMIT ELIGIBILITY FOR PERMANENT REGISTRATION PLATES TO GOVERNMENTAL ENTITIES, AND TO REFORM THE PROCESS BY WHICH ELIGIBLE ENTITIES APPLY FOR AND ARE ISSUED PERMANENT REGISTRATION PLATES, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE BASED ON RECOMMENDATIONS FROM THE PROGRAM EVALUATION DIVISION, BUT TO CONTINUE TO ALLOW CIVIL AIR PATROLS, INCORPORATED EMERGENCY RESCUE SQUADS, RURAL FIRE DEPARTMENTS, AND LOCAL CHAPTERS OF THE AMERICAN NATIONAL RED CROSS TO BE ELIGIBLE FOR PERMANENT REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-84 reads as rewritten:

"§ 20-84. **Permanent registration plates; State Highway Patrol.**

(a) General. – The Division may issue a permanent registration plate for a motor vehicle owned by one of the ~~persons~~entities authorized to have a permanent registration plate in this section. To obtain a permanent registration plate, ~~a person~~an authorized representative of the entity must provide proof of ownership, provide proof of financial responsibility as required by G.S. 20-309, and pay a fee of six dollars (\$6.00). A permanent plate issued under this section may be transferred as provided in G.S. 20-78 to a replacement vehicle of the same classification. A permanent registration plate issued under this section must be a distinctive color and bear the word "permanent". In addition, a permanent registration plate issued under subdivision (b)(1) of this section must have distinctive color and design that is readily distinguishable from all other permanent registration plates issued under this section. Every eligible entity that receives a permanent registration plate under this section shall ensure that the permanent registration plate is registered under a single name. That single name shall be the full legal name of the eligible entity.

(b) Permanent Registration Plates. – The Division may issue permanent plates for the following motor vehicles:

- (1) A motor vehicle owned by the State or one of its agencies.
- (2) A motor vehicle owned by a county, city or town.
- (3) A motor vehicle owned by a board of education.
- ~~(4) A motor vehicle owned by an orphanage.~~
- (5) A motor vehicle owned by the civil air patrol.
- (6) A motor vehicle owned by an incorporated emergency rescue squad.
- ~~(7) A motor vehicle owned by an incorporated REACT ("Radio Emergency Association of Citizen Teams") Team.~~
- ~~(8) A motor vehicle owned by a person and used exclusively in the support of a disaster relief effort.~~
- ~~(9) A bus owned by a church and used exclusively for transporting individuals to Sunday school, to church services, and to other church related activities.~~
- (10) A motor vehicle owned by a rural fire department, agency, or association.
- ~~(11) A motor vehicle in the form of a mobile X-ray unit operated exclusively in this State for the purpose of diagnosis, treatment, and discovery of tuberculosis, and owned by the North Carolina Tuberculosis Association, Incorporated, or by a local chapter or association of the North Carolina Tuberculosis Association, Incorporated.~~
- (12) A motor vehicle owned by a local chapter of the American National Red Cross and used for emergency or disaster work.
- ~~(13) A motor vehicle owned by a sheltered workshop recognized or approved by the Division of Vocational Rehabilitation Services.~~
- ~~(14) A motor vehicle owned by a nonprofit agency or organization that provides transportation for or operates programs subject to and approved in accordance with standards adopted by the Commission for Mental Health and Human Services.~~
- ~~(15) A bus or trackless trolley owned by a city and operated under a franchise authorizing the use of city streets. This subdivision does not apply to a bus or trackless trolley operated under a franchise authorizing an intercity operation.~~
- ~~(16) A trailer owned by a nationally chartered charitable organization and used exclusively for parade floats and for transporting vehicles and structures used only in parades.~~
- (17) A motor vehicle owned by a community college. A community college vehicle purchased with State equipment funds shall be issued a permanent registration plate with the same distinctive color and design as a permanent registration plate issued under subdivision (1) of this subsection.

(c) State Highway Patrol. – In lieu of all other registration requirements, the Commissioner shall each year assign to the State Highway Patrol, upon payment of six dollars (\$6.00) per registration plate, a sufficient number of regular registration plates of the same letter prefix and in numerical sequence beginning with number 100 to meet the requirements of the State Highway Patrol for use on Division vehicles assigned to the State Highway Patrol. The commander of the Patrol shall, when such plates are assigned, issue to each member of the State Highway Patrol a registration plate for use upon the Division vehicle assigned to the member pursuant to G.S. 20-190 and assign a registration plate to each Division service vehicle operated by the Patrol. An index of such assignments of registration plates shall be kept at each State Highway Patrol radio station and a copy of it shall be furnished to the registration division of the Division. Information as to the individual assignments of the registration plates shall be made available to the public upon request to the same extent and in the same manner as regular registration information. The commander, when necessary, may reassign registration plates

provided that the reassignment shall appear upon the index required under this subsection within 20 days after the reassignment.

(d) Revocation. – The Division may revoke all permanent registration plates issued to eligible entities for vehicles that are 90 days or more past due for a vehicle inspection, as required by G.S. 20-183.4C. This subsection does not limit or restrict the authority of the Division to revoke permanent registration plates pursuant to other applicable law."

SECTION 2. G.S. 117-33 reads as rewritten:

"§ 117-33. Declared public agency of State; taxes and assessments.

A telephone membership corporation heretofore or hereafter organized under this Article shall be, and is hereby declared to be a public agency, and shall have within its limits for which it was formed the same rights as any other political subdivision of the State, and all property owned by said telephone membership corporation and used exclusively for the purpose of said corporation shall be held in the same manner and subject to the same taxes and assessments as property owned by any county or municipality of the State so long as said property is owned by said telephone membership corporation and is used for the purposes for which the corporation was formed. Notwithstanding the foregoing, a telephone membership corporation shall not be eligible to receive a permanent registration plate issued under G.S. 20-84."

SECTION 3. Except for State entities issued permanent registration plates under G.S. 20-84(b)(1), the Division of Motor Vehicles shall cancel all permanent registration plates issued to non-State entities and reissue permanent registration plates with a new design to eligible non-State entities by January 15, 2013. The Division shall determine the new design of the permanent registration plates reissued to eligible non-State entities.

SECTION 4. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:21 p.m. on the 12th day of July, 2012.

Session Law 2012-160

H.B. 737

AN ACT TO STRENGTHEN THE LAWS REGARDING THE SAFETY OF CHILDREN IN CHILD CARE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-90.2 reads as rewritten:

"§ 110-90.2. Mandatory child care providers' criminal history checks.

(a) For purposes of this section:

- (1) "Child care", notwithstanding the definition in G.S. 110-86, means any child care provided in child care facilities required to be licensed or regulated under this Article and nonlicensed child care homes approved to receive or receiving State or federal funds for providing child care.
- (2) "Child care provider" means a person who:
 - a. Is employed by or seeks to be employed by a child care facility providing child care as defined in subdivision (1) of this ~~subsection~~ and has contact with the children; subsection, whether in temporary or permanent capacity, including substitute providers;
 - b. Owns or operates or seeks to own or operate a child care facility or nonlicensed child care home providing child care as defined in subdivision (1) of this subsection; or
 - c. Is a member of the household in a family child care ~~home or home,~~ nonlicensed child care home-home, or child care center in a residence and who is over 15 years old and is present when children are in care. ~~This subdivision shall apply only to new family child care homes and~~

~~nonlicensed homes beginning March 1, 1998, old, including family members and nonfamily members who use the home on a permanent or temporary basis as their place of residence.~~

- (3) "Criminal history" means a county, state, or federal criminal history of conviction or pending indictment of a ~~crime, crime or criminal charge,~~ whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of ~~children as set forth in G.S. 110-91(8)-children.~~ Such crimes ~~include include,~~ but are not limited to, the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred 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; Article 16, Larceny; Article 17, Robbery; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19C, Identity Theft; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 29, Bribery; 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 52, Miscellaneous Police Regulations; and Article 59, Public Intoxication. Such crimes also include cruelty to animals in violation of Article 3 of Chapter 19A of the General Statutes, possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.
- (4) "Substitute provider" means a person who temporarily assumes the duties of a staff person for a time period not to exceed two consecutive months and may or may not be monetarily compensated by the facility.
- (5) "Uncompensated provider" means a person who works in a child care facility and is counted in staff/child ratio or has unsupervised contact with children, but who is not monetarily compensated by the facility.

(a1) No person shall be a child care provider or uncompensated child care provider who has been any of the following:

- (1) Convicted of a misdemeanor or a felony crime involving child neglect or child abuse.
- (2) Adjudicated a "responsible individual" under G.S. 7B-807(a1).
- (3) Convicted of a "reportable conviction" as defined under G.S. 14-208.6(4).

(b) Effective January 1, 1996, the Department shall ensure ~~that—that,~~ prior to employment and every three years thereafter, the criminal history of all child care providers is checked and a determination is made of the child care provider's fitness to have responsibility for the safety and well-being of children based on the criminal history. The Department shall ensure that all child care providers ~~who have lived in North Carolina continuously for the previous five years are checked for county and State criminal histories. The Department shall ensure that all other child care providers~~ are checked for county, State, and ~~national-federal~~ criminal histories. ~~The Department may prohibit a child care provider from providing child care if the Department determines that the child care provider is unfit to have responsibility for the safety and well-being of children based on the criminal history, in accordance with G.S. 110-91(8).~~

(b1) The Department may prevent an individual from being a child care provider if the Department determines that the individual is a habitually excessive user of alcohol, illegally uses narcotic or other impairing drugs, or is mentally or emotionally impaired to an extent that may be injurious to children.

(c) The Department of Justice shall provide to the Division of Child Development, Department of Health and Human Services, the criminal history from the State and National Repositories of Criminal Histories of any child care provider as requested by the Division.

The Division shall provide to the Department of Justice, along with the request, the fingerprints of the provider to be checked, any additional information required by the Department of Justice, and a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories signed by the child care provider to be checked. The fingerprints of the provider shall be forwarded to the State Bureau of Investigation for a search of their 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~~ federal criminal history record check.

At the time of application the child care provider whose criminal history is to be checked shall be furnished with a statement substantially similar to the following:

"NOTICE

**CHILD CARE PROVIDER
MANDATORY CRIMINAL HISTORY CHECK**

NORTH CAROLINA LAW REQUIRES THAT A CRIMINAL HISTORY RECORD CHECK BE CONDUCTED ON ALL PERSONS WHO PROVIDE CHILD CARE IN A LICENSED CHILD CARE FACILITY, AND ALL PERSONS PROVIDING CHILD CARE IN NONLICENSED CHILD CARE HOMES THAT RECEIVE STATE OR FEDERAL FUNDS.

"Criminal history" ~~includes means a county, state, and federal convictions or pending indictments of any of the following crimes: the following~~ or federal criminal history of conviction, pending indictment of a crime, or criminal charge, whether a misdemeanor or a felony, that bears on an individual's fitness to have responsibility for the safety and well-being of children. Such crimes include, but are not limited to, the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred 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; Article 16, Larceny; Article 17, Robbery; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19C, Identity Theft; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 29, Bribery; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication; Intoxication. Such crimes also include cruelty to animals in violation of Article 3 of Chapter 19A of the General Statutes, violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through ~~G.S. 20-138.5;~~ or G.S. 20-138.5. In addition to the North Carolina crimes listed in this notice, such crimes also include similar crimes under federal law or under the laws of other states. Your fingerprints will be used to check the criminal history records of the State Bureau of Investigation (SBI) and the Federal Bureau of Investigation (FBI).

If it is determined, based on your criminal history, that you are unfit to have responsibility for the safety and well-being of children, you shall have the opportunity to complete, or challenge the accuracy of, the information contained in the SBI or FBI identification records.

If you disagree with the determination of the North Carolina Department of Health and Human Services on your fitness to provide child care, you may file a civil lawsuit within 60 days after receiving written notification of disqualification in the district court in the county where you live.

Any child care provider who intentionally falsifies any information required to be furnished to conduct the criminal history record check shall be guilty of a Class 2 misdemeanor."

Refusal to consent to a criminal history record check or intentional falsification of any information required to be furnished to conduct a criminal history record check is grounds for the Department to prohibit the child care provider from providing child care. Any child care provider who intentionally falsifies any information required to be furnished to conduct the criminal history shall be guilty of a Class 2 misdemeanor.

(d) The Department shall notify in writing the child care provider, and the child care provider's employer, if any, or for nonlicensed child care homes the local purchasing agency, of the determination by the Department whether the child care provider is qualified to provide child care based on the child care provider's criminal history. In accordance with the law regulating the dissemination of the contents of the criminal history file furnished by the Federal Bureau of Investigation, the Department shall not release nor disclose any portion of the child care provider's criminal history to the child care provider or the child care provider's employer or local purchasing agency. The Department shall also notify the child care provider of the procedure for completing or challenging the accuracy of the criminal history and the child care provider's right to contest the Department's determination in court.

A child care provider who disagrees with the Department's decision may file a civil action in the district court of the county of residence of the child care provider within 60 days after receiving written notification of disqualification. Review of the Department's determination disqualifying a child care provider shall be de novo. No jury trial is available for appeals to district court under this section.

(e) All the information that the Department receives through the checking of the criminal history is privileged information and is not a public record but is for the exclusive use of the Department and those persons authorized under this section to receive the information. The Department may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(f) There shall be no liability for negligence on the part of an employer of a child care provider, an owner or operator of a child care facility, a State or local agency, or the employees of a State or local agency, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection is waived to the extent of indemnification by insurance, indemnification under Article 31A of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Torts Claim Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(g) The child care provider shall pay the cost of the fingerprinting and the ~~local check~~ federal criminal history record check in accordance with G.S. 114-19.5. The Department of Justice shall perform the State criminal history record check. ~~If the Department determines that a child care provider who has lived continuously in the State less than five years is not disqualified based on the local and State criminal history record check, the Department shall request a criminal history check from the National Repository of Criminal History from the Department of Justice.~~ The Department of Health and Human Services shall pay ~~the cost for the national criminal history record check~~ for and conduct the county criminal history record

check. Child care providers who reside outside the State bear the cost of the county criminal history record check and shall provide the county criminal history record check to the Division of Child Development as required by this section."

SECTION 2. G.S. 110-91(8) reads as rewritten:

"§ 110-91. **Mandatory standards for a license.**

All child care facilities shall comply with all State laws and federal laws and local ordinances that pertain to child health, safety, and welfare. Except as otherwise provided in this Article, the standards in this section shall be complied with by all child care facilities. However, none of the standards in this section apply to the school-age children of the operator of a child care facility but do apply to the preschool-age children of the operator. Children 13 years of age or older may receive child care on a voluntary basis provided all applicable required standards are met. The standards in this section, along with any other applicable State laws and federal laws or local ordinances, shall be the required standards for the issuance of a license by the Secretary under the policies and procedures of the Commission except that the Commission may, in its discretion, adopt less stringent standards for the licensing of facilities which provide care on a temporary, part-time, drop-in, seasonal, after-school or other than a full-time basis.

...

- (8) **Qualifications for Staff.** – All child care center administrators shall be at least 21 years of age. All child care center administrators shall have the North Carolina Early Childhood Administration Credential or its equivalent as determined by the Department. All child care administrators performing administrative duties as of the date this act becomes law and child care administrators who assume administrative duties at any time after this act becomes law and until September 1, 1998, shall obtain the required credential by September 1, 2000. Child care administrators who assume administrative duties after September 1, 1998, shall begin working toward the completion of the North Carolina Early Childhood Administration Credential or its equivalent within six months after assuming administrative duties and shall complete the credential or its equivalent within two years after beginning work to complete the credential. Each child care center shall be under the direction or supervision of a person meeting these requirements. All staff counted toward meeting the required staff-child ratio shall be at least 16 years of age, provided that persons younger than 18 years of age work under the direct supervision of a credentialed staff person who is at least 21 years of age. All lead teachers in a child care center shall have at least a North Carolina Early Childhood Credential or its equivalent as determined by the Department. Lead teachers shall be enrolled in the North Carolina Early Childhood Credential coursework or its equivalent as determined by the Department within six months after becoming employed as a lead teacher or within six months after this act becomes law, whichever is later, and shall complete the credential or its equivalent within 18 months after enrollment.

For child care centers licensed to care for 200 or more children, the Department, in collaboration with the North Carolina Institute for Early Childhood Professional Development, shall establish categories to recognize the levels of education achieved by child care center administrators and teachers who perform administrative functions. The Department shall use these categories to establish appropriate staffing based on the size of the center and the individual staff responsibilities.

Effective January 1, 1998, an operator of a licensed family child care home shall be at least 21 years old and have a high school diploma or its equivalent. Operators of a family child care home licensed prior to January

1, 1998, shall be at least 18 years of age and literate. Literate is defined as understanding licensing requirements and having the ability to communicate with the family and relevant emergency personnel. Any operator of a licensed family child care home shall be the person on-site providing child care.

~~No person shall be an operator of nor be employed in a child care facility who has been convicted of a crime involving child neglect, child abuse, or moral turpitude, or who is an habitually excessive user of alcohol or who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children.~~

The Commission shall adopt standards to establish appropriate qualifications for all staff in child care centers. These standards shall reflect training, experience, education and credentialing and shall be appropriate for the size center and the level of individual staff responsibilities. It is the intent of this provision to guarantee that all children in child care are cared for by qualified people. Pursuant to G.S. 110-106, no requirements may interfere with the teachings or doctrine of any established religious organization. The staff qualification requirements of this subdivision do not apply to religious-sponsored child care facilities pursuant to G.S. 110-106.

...."

SECTION 3. This act becomes effective January 1, 2013.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:23 p.m. on the 12th day of July, 2012.

Session Law 2012-161

S.B. 647

AN ACT TO PROVIDE FOR THE CREATION OF MUTUAL INSURANCE HOLDING COMPANIES AND TO CHANGE THE TIME PERIOD FOR FIRE CODE INSPECTIONS OF PUBLIC BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 8. Mutual Insurance Holding Companies.

"§ 58-10-275. Definitions.

The following definitions apply in this Part:

- (1) Affiliated. – Defined in G.S. 58-19-5.
- (2) Control. – Defined in G.S. 58-19-5.
- (3) Domestic mutual insurance company. – An insurance company organized on a mutual plan and incorporated under the laws of North Carolina.
- (4) Interested person. – With respect to another person, includes any of the following:
 - a. Any affiliated person.
 - b. Any member of the immediate family of any natural person who is an affiliated person of such company.
 - c. Any person or partner or employee of any person who at any time since the beginning of the last two completed fiscal years of such company has acted as legal counsel for such company.
 - d. Any natural person whom the Commissioner by order shall have determined to be an interested person by reason of having had, at any time since the beginning of the last two completed fiscal years of

- such company, a material business or professional relationship with such company or with the principal executive officer of such company.
- (5) Intermediate holding company. – A holding company that is a subsidiary of a mutual insurance holding company or part of a holding company system controlled by a mutual insurance holding company subject to the terms and conditions of Article 19 of this Chapter and that either directly or through a subsidiary intermediate holding company has one or more subsidiary reorganized insurance companies of which a majority of the voting shares of the capital stock would otherwise have been required by this section to be at all times owned by the mutual insurance holding company.
- (6) Limited application. – An application by a domestic mutual insurance company for reorganization to a mutual insurance holding company which will hold, at all times, one hundred percent (100%) of the stock of its insurance subsidiaries.
- (7) Majority of the voting shares of the capital stock of the reorganized insurance company. – Shares of the capital stock of a reorganized insurance company which carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the capital stock of the reorganized insurance company for the election of directors and on all other matters submitted to a vote of the shareholders of the reorganized insurance company.
- (8) Member of the immediate family. – Any parent, spouse of a parent, child, spouse of a child, spouse, brother, or sister, including step and adoptive relationships.
- (9) Mutual insurance holding company. – A holding company organized on a mutual plan and incorporated under the laws of North Carolina, resulting from the reorganization of a domestic mutual insurance company pursuant to this Part, with one or more stock insurance holding company subsidiaries or stock insurance company subsidiaries.
- (10) Plan of reorganization. – A plan to reorganize a domestic mutual insurance company by forming a mutual insurance holding company.
- (11) Standard application. – An application by a domestic mutual insurance company for reorganization to a mutual insurance holding company which may sell interests in its subsidiaries to third parties.
- (12) Stock. – Any security evidencing an equity interest in the issuing entity.
- (13) Stock offering. – Any proposed sale, exchange, transfer, or other change of ownership of stock or of securities convertible into or exchangeable or exercisable for stock. For the purposes of this Article, "stock offering" shall not include any of the following:
- a. An offering of preferred stock which is not convertible or exchangeable into common stock and which has no ordinary voting rights.
 - b. A transfer of stock among any of the following:
 1. A mutual insurance holding company.
 2. An insurance company subsidiary of a mutual insurance holding company.
 3. An intermediate holding company subsidiary of a mutual insurance holding company.
 4. An insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.
- (14) Subsidiary. – Defined in G.S. 58-19-5.

"§ 58-10-280. General provisions.

(a) A domestic mutual insurance company, upon approval of the Commissioner, may reorganize by forming an insurance holding company based upon a mutual plan and by continuing the corporate existence of the reorganizing insurance company as a stock insurance company. If the Commissioner, after a public comment period as provided in G.S. 58-10-285, or, if applicable, a public hearing, is satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, the Commissioner may approve the proposed plan of reorganization and may require as a condition of approval such modifications of the proposed plan of reorganization as the Commissioner finds necessary for the protection of the policyholders' interests. The Commissioner may retain consultants as provided in G.S. 58-10-285 to assist in the review of the proposed plan. The Commissioner shall retain jurisdiction over a mutual insurance holding company organized under this Part to assure that policyholder interests are protected. All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company, pursuant to the terms and conditions of the plan of reorganization approved by the Commissioner. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company.

(b) A domestic mutual insurance company, after approval by the Commissioner, may reorganize by merging its policyholders' membership interests into a mutual insurance holding company formed under subsection (a) of this section and continuing the corporate existence of the reorganizing insurance company as a stock insurance company subsidiary of the mutual insurance holding company. If the Commissioner is satisfied that the interests of the policyholders are properly protected and that the merger of interests is fair and equitable to the policyholders, the Commissioner may approve the proposed merger of interests and may require as a condition of approval such modifications of the proposed merger of interests as the Commissioner finds necessary for the protection of the policyholders' interests. The Commissioner may retain consultants as provided in G.S. 58-10-285. The Commissioner has jurisdiction over the mutual insurance holding company organized under this Part to assure that policyholder interests are protected. All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall, pursuant to the terms and conditions of the plan of reorganization approved by the Commissioner, become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with subsection (a) of this section and the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company.

(c) A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company that was organized under Articles 7 and 8 and other applicable provisions of this Chapter shall be incorporated under this Chapter. The articles of incorporation and any amendments to such articles of the mutual insurance holding company shall be subject to approval of the Commissioner in the same manner as those of a mutual insurance company.

(d) A mutual insurance holding company is an insurer subject to Article 30 of this Chapter and shall automatically be a party to any proceeding under Article 30 of this Chapter involving an insurance company which, as a result of a reorganization under subsection (a) or (b) of this section, is a subsidiary of the mutual insurance holding company. In any proceeding

under Article 30 of this Chapter involving the reorganized insurance company, the assets of the mutual insurance holding company are deemed to be assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the reorganized insurance company's policyholders. A mutual insurance holding company shall not dissolve or liquidate without the approval of the Commissioner or as ordered by the court pursuant to Article 30 of this Chapter.

(e) G.S. 58-10-10 and G.S. 58-10-12 are not applicable to a reorganization or merger of interests under this Part. G.S. 58-10-10 and G.S. 58-10-12 are applicable to demutualization of a mutual insurance holding company that resulted from the reorganization of a domestic mutual insurance company organized under this Chapter as if the mutual insurance holding company was a mutual insurance company.

(f) A membership interest in a domestic mutual insurance holding company shall not constitute a security as defined in Chapter 78A of the General Statutes.

(g) The majority of the voting shares of the capital stock of the reorganized insurance company, which is required by this section to be at all times owned by a mutual insurance holding company, shall not be conveyed, transferred, assigned, pledged, subjected to a security interest or lien, encumbered, or otherwise hypothecated or alienated by the mutual insurance holding company or intermediate holding company. Any conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation of, in, or on the majority of the voting shares of the reorganized insurance company is a violation of this section and shall be void in inverse chronological order of the date of such conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation, as to the shares necessary to constitute a majority of such voting shares. The majority of the voting shares of the capital stock of the reorganized insurance company shall not be subject to execution and levy as provided in Chapter 1 of the General Statutes. The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two or more reorganized insurance companies or two or more intermediate holding companies that were subsidiaries of the same mutual insurance holding company are subject to the same requirements, restrictions, and limitations to which the shares of the merging or consolidating reorganized insurance companies or intermediate holding companies were subject by this section prior to the merger or consolidation. The ownership of a majority of the voting shares of the capital stock of the reorganized insurance company that are required by this section to be at all times owned by a parent mutual insurance holding company includes indirect ownership through one or more intermediate holding companies in a corporate structure approved by the Commissioner. However, indirect ownership through one or more intermediate holding companies shall not result in the mutual insurance holding company owning less than the equivalent of a majority of the voting shares of the capital stock of the reorganized insurance company. The Commissioner shall have jurisdiction over an intermediate holding company as if it were a mutual insurance holding company.

(h) The applicant's articles of incorporation or bylaws, as appropriate, shall require a policyholder vote of approval of the reorganization by a two-thirds majority of the domestic mutual insurance company's policyholders voting on it in person, by proxy, or by mail at a meeting called for the purpose of voting on the reorganization.

"§ 58-10-285. Application; contents; process.

(a) An application shall be designated as either a limited application or a standard application. The filing of a limited application shall not preclude the subsequent filing of an application for approval of an initial sale of stock as provided in G.S. 58-10-315.

(b) The application shall be filed in triplicate with the Commissioner and shall include the following items:

- (1) Designation as a limited or standard application.
- (2) A plan of reorganization as set forth in G.S. 58-10-290.
- (3) A plan to obtain the approval of the policyholders in accordance with this Part and the applicant's articles of incorporation and bylaws.

- (4) A copy of the mutual insurance holding company's proposed articles of incorporation and bylaws specifying all membership rights.
- (5) The names, addresses, and occupational information of all corporate officers and members of the initial mutual insurance holding company board of directors.
- (6) Information sufficient to demonstrate that the financial condition of the applicant will not be diminished upon reorganization.
- (7) A copy of the proposed articles of incorporation and bylaws for any insurance company subsidiary or intermediate holding company subsidiary.
- (8) A "Form A" filing as described in Chapter 11 of Title 11 of the North Carolina Administrative Code.
- (9) A statement that the application is in compliance with all pertinent North Carolina General Statutes and Administrative Rules and that the requirements for a plan of reorganization have been fulfilled.
- (10) An index demonstrating wherein the application information supplied in compliance with this subsection is found.
- (11) The applicable fee required by subsection (f) of this section.
- (12) Any other information requested by the Commissioner at any time during the course of proceedings.

(c) Upon receipt and review by the Commissioner of all information provided pursuant to subsection (b) of this section, the Commissioner may establish a period during which the Department will receive and consider public comments on the proposed reorganization. The Commissioner may inform the public of the limited or standard application in a manner deemed appropriate by the Commissioner and may hold a public hearing concerning the application.

(d) The Commissioner may contract, at the expense of the person filing the application, with any attorneys, actuaries, economists, accountants, consultants, or other professional advisors not otherwise a part of the Commissioner's staff to assist the Commissioner in reviewing the application. These contracts are personal professional service contracts exempt from Articles 3 and 3C of Chapter 143 of the General Statutes.

(e) The expenses of mailing any notices and other materials required by this section shall be borne by the person filing the application.

(f) An applicant filing a limited application under this section shall submit with the application under subsection (b) of this section an application fee of two hundred fifty dollars (\$250.00). An applicant filing a standard application under this section shall submit with the application under subsection (b) of this section an application fee of five hundred dollars (\$500.00).

"§ 58-10-290. Plan of reorganization.

- (a) A limited application plan of reorganization shall include the following provisions:
 - (1) Establishing a mutual insurance holding company with at least one stock insurance company subsidiary or one intermediary stock holding company with a stock insurance company subsidiary, the shares of which shall be held exclusively by the mutual insurance holding company.
 - (2) Protecting the interests of existing policyholders.
 - (3) Ensuring immediate membership in the mutual insurance holding company of all existing policyholders of the reorganizing domestic mutual insurance company.
 - (4) Describing a plan providing for membership interests of future policyholders.
 - (5) Describing the number of members of the board of directors of the mutual insurance holding company required to be policyholders.

- (6) Demonstrating that, in the event of proceedings under Article 30 of this Chapter involving a stock insurance company subsidiary of the mutual insurance holding company which resulted from the reorganization of a domestic mutual insurance company, the assets of the mutual insurance holding company will be available to satisfy the policyholder obligations of the stock insurance company.
- (7) Describing how any accumulation or prospective accumulation of earnings by the mutual insurance holding company in excess of that determined by the board of directors of the mutual insurance holding company to be necessary shall inure to the exclusive benefit of the policyholders of its insurance company subsidiaries who are members.
- (8) Describing the nature and content of the annual report and financial statement to be sent to each member.
- (9) Describing any other relevant matters the applicant deems appropriate.
- (b) A standard application plan of reorganization shall include the following provisions:
 - (1) Establishing a mutual insurance holding company with at least one stock insurance company subsidiary or one wholly owned intermediate stock holding company with a stock insurance company subsidiary, the shares of which shall be held exclusively by the wholly owned intermediate holding company.
 - (2) Protecting the interests of existing policyholders.
 - (3) Ensuring immediate membership in the mutual insurance holding company of all existing policyholders of the reorganizing domestic mutual insurance company.
 - (4) Providing for membership interests of future policyholders.
 - (5) Describing the number of members of the board of directors of the mutual insurance holding company required to be policyholders.
 - (6) Demonstrating that, in the event of proceedings under Article 30 of this Chapter involving a stock insurance company subsidiary of the mutual insurance holding company which resulted from the reorganization of a domestic mutual insurance company, the assets of the mutual insurance holding company will be available to satisfy the policyholder obligations of the stock insurance company.
 - (7) Describing how any accumulation or prospective accumulation of earnings by the mutual insurance holding company in excess of that determined by the board of directors of the mutual insurance holding company to be necessary shall inure to the exclusive benefit of the policyholders of its insurance company subsidiaries who are members.
 - (8) Describing the nature and content of the annual report and financial statement to be sent to each member.
 - (9) Describing the applicant's plan for a stock offering in accordance with the provisions of G.S. 58-10-315.
 - (10) Describing any other relevant matters the applicant deems appropriate.
- (c) With regard to either a limited or standard application, the plan of reorganization submitted to the Commissioner shall demonstrate the following:
 - (1) Policyholder interests are properly preserved and protected.
 - (2) The plan is fair and equitable to policyholders.
 - (3) The financial condition of the applicant will not be diminished.

"§ 58-10-295. Powers of the Commissioner.

- (a) The Commissioner shall at all times retain jurisdiction over the mutual insurance holding company, its intermediate holding company subsidiaries with stock insurance company subsidiaries, and its stock insurance company subsidiaries.

(b) Following any public comment period or hearing pursuant to G.S. 58-10-285, the Commissioner by order shall approve, conditionally approve, or deny an application. The Commissioner may require, as a condition of approval of the proposed reorganization, modifications of the proposed plan of reorganization that the Commissioner finds necessary. The applicant shall accept the required modifications by filing appropriate amendments to the proposed plan of reorganization with the Commissioner within 30 days of the date of the Commissioner's order requiring the modifications. If the applicant does not accept the required modifications by failing to file the required amendments to the proposed plan of reorganization within 30 days, the proposed reorganization shall be deemed denied.

(c) An approval or conditional approval of a plan of reorganization shall expire if the reorganization is not completed within 210 days after the approval or conditional approval unless the time period is extended by the Commissioner upon a showing of good cause.

(d) The Commissioner may revoke approval or conditional approval of an applicant's plan of reorganization in the event the Commissioner finds the applicant has failed to comply with the plan of reorganization. The Commissioner may compel completion of a plan of reorganization unless the plan is abandoned in its entirety, in accordance with the applicant's provisions for governance.

(e) Upon completion of all elements of a plan of reorganization, the applicant shall provide a notice of completion to the Commissioner.

"§ 58-10-300. Special financial requirements.

(a) Mutual insurance holding companies and their insurance company subsidiaries and affiliates shall comply with the provisions of Article 19 of this Chapter except as expressly provided in this Part. Mutual insurance holding companies' investments in subsidiaries, including intermediate holding companies, shall not be subject to any of the restrictions on investment activities set forth in G.S. 58-19-10.

(b) When a mutual insurance holding company acquires or plans to acquire more than fifty percent (50%) of a stock insurance company, the mutual insurance holding company shall submit to the Commissioner a plan describing any membership interests of policyholders.

(c) Each mutual insurance holding company shall supply to the Commissioner, by April 1 of each year, an annual statement consisting of the following:

- (1) An income statement.
- (2) A balance sheet.
- (3) A cash flow statement.
- (4) Complete information on the status of any closed block formed as a part of a plan of reorganization.
- (5) An investment plan covering all assets.
- (6) A statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or in any way encumber the assets of the mutual insurance holding company.

(d) At least fifty percent (50%) of the net worth of the mutual insurance holding company, based upon generally accepted accounting practices, shall be invested in insurance company subsidiaries. The Commissioner may waive the fifty percent (50%) limitation upon a showing of good cause.

(e) No policyholder who is a member of a mutual insurance holding company shall receive on account of such membership interest any payment of a policy credit, dividend, or other distribution unless the payment has been approved by the Commissioner. The Commissioner, if satisfied the proposed payment is fair and equitable to policyholders who are members, may approve the proposed payment and may require as a condition of the approval modification of the proposed payment that the Commissioner finds necessary for the protection of the policyholders.

(f) Mutual insurance holding companies shall comply with Part 3 of this Article and shall be considered a domestic insurer for the purposes of compliance with Part 3 of this Article.

"§ 58-10-305. Reorganization of domestic mutual insurer with mutual insurance holding company.

A domestic mutual insurance company may apply to reorganize by merging its policyholders' membership interests into a mutual insurance holding company by filing with the Commissioner a joint application with the mutual insurance holding company complying with the provisions of G.S. 58-10-285.

"§ 58-10-310. Mergers of mutual insurance holding companies.

A mutual insurance holding company may apply to merge with another mutual insurance holding company by filing with the Commissioner a plan of merger and complying with the provisions of Article 19 of this Chapter.

"§ 58-10-315. Stock offerings.

(a) No stock offering by a mutual insurance holding company, an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance holding company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company shall occur without the prior approval of the Commissioner.

(b) Every application for approval of a stock offering shall contain the following information:

- (1) A description of the stock intended to be offered by the applicant, including a description of all shareholder rights.
- (2) The total number of shares authorized to be issued, the estimated number the applicant requests permission to offer, and the intended date or range of dates for the offer.
- (3) A justification for a uniform planned offering price or a justification of the method by which the offering price will be determined.
- (4) The name or names of any underwriter, syndicate member, or placement agent involved and, if known, the name or names of each entity, person, or group of persons to whom the stock offering is to be made who will control five percent (5%) of the total outstanding class of shares, and the manner in which the offer is to be tendered. If any such entity or person is a corporation or business organization, the name of each member of its board of directors or equivalent management team shall be provided along with the name of each member of the board of directors of the offeror. Copies of any filings with the United States Securities and Exchange Commission disclosing intended acquisitions of the stock shall be included in the application.
- (5) A description of stock subscription rights to be afforded members of the mutual insurance holding company in conjunction with the stock offering.
- (6) A detailed description of all expenses to be incurred in conjunction with the stock offering.
- (7) An explanation of how funds raised by the stock offering are to be used.
- (8) Any other information requested by the Commissioner.

(c) No application regarding a planned stock offering shall be approved unless the plan contains the following provisions:

- (1) Prohibiting officers, directors, and insiders of the mutual insurance holding company and its subsidiaries and affiliates from purchase or ownership of shares of the stock offering, or issuance of stock options to or for the benefit of such officers, directors, and insiders, in excess of five percent (5%) of the stock offering. The Commissioner may waive this requirement upon a showing of good cause. This subdivision does not limit the rights of officers, directors, and insiders from exercising subscription rights that are generally accorded members of the mutual insurance holding company. However, pursuant to those subscription rights, the officers, directors, and insiders of the mutual insurance holding company and its subsidiaries and affiliates may

not purchase or own, in the aggregate, more than five percent (5%) of the stock offering.

- (2) Requiring that, after the initial stock offering, a majority of the board of directors of the mutual insurance holding company be persons who are not interested persons of the mutual insurance holding company or of an affiliated person of the company. For purposes of this subdivision, a member of the mutual insurance holding company or a policyholder of any of its insurance company subsidiaries shall not be considered an "interested person" or an "affiliated person." The Commissioner may waive this requirement upon a showing of good cause.
- (3) For the mutual insurance holding company to adopt articles of incorporation prohibiting any waiver of dividends from stock subsidiaries except under conditions specified in its articles of incorporation and after approval of the waiver by the board of directors of the mutual insurance holding company and the Commissioner.
- (4) Requiring that, after the initial stock offering by an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance holding company, or an insurance company subsidiary of an intermediate holding company subsidiary of a mutual insurance holding company, the boards of directors of each insurance company or intermediate holding company include at least three directors who are not interested persons of the mutual insurance holding company. The Commissioner may waive this requirement upon a showing of good cause.
- (5) Establishing, within the board of directors of the corporation offering stock, a pricing committee consisting exclusively of directors who are not members of management of the insurance company subsidiary whose responsibility is to evaluate and approve the price of any stock offering.

(d) An insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance holding company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company may issue more than one class of stock, provided, however, that the issuer complies with all of the following requirements:

- (1) At all times a majority of the voting stock is held by the mutual insurance holding company or its subsidiary.
- (2) No class of common stock may possess greater dividend or other rights than the class held by the mutual insurance holding company or its subsidiary.

(e) The Commissioner may retain, at the expense of the person filing the application, any attorneys, actuaries, economists, accountants, consultants, or other professional advisors not otherwise a part of the Commissioner's staff to assist the Commissioner in reviewing the application. These contracts are personal professional service contracts exempt from Articles 3 and 3C of Chapter 143 of the General Statutes.

(f) The expenses of mailing any notices and other materials required by this section shall be borne by the person filing the application.

(g) Upon receipt and review by the Commissioner of all information provided under this section, the Commissioner may establish a period during which the Department will receive and consider public comments about the proposed offering. The Commissioner shall inform the public of the offering by posting information about the application in a manner deemed appropriate by the Commissioner. The Commissioner may hold a public hearing concerning the application or the proposed offering. Following any public comment period or hearing, if applicable, the Commissioner may approve, conditionally approve, or deny the application. The Commissioner may approve the application if the following apply:

- (1) The offering complies with this Part and other provisions of law.
- (2) The method for establishing the price of a stock offering is consistent with generally accepted market or industry practices for establishing stock offering prices in similar transactions.
- (3) The plan and offering will not unfairly impact the interests of members of the mutual insurance holding company.

Nothing in this subsection shall be deemed to prohibit the filing of a registration statement with the United States Securities and Exchange Commission before or concurrently with the giving of notice to members.

(h) Notwithstanding the provisions of subsections (a) through (g) of this section, stock offerings which are not an initial stock offering, and which are proposed by entities with a class of securities regularly traded on the New York Stock Exchange, the American Stock Exchange, or another exchange approved by the Commissioner, or designated on the National Association of Securities Dealers Automated Quotations national market system (NASDAQ), may be sold in accordance with the following procedure: if a mutual insurance holding company, an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company, or an insurance company subsidiary of an intermediate holding company intends to make a stock offering which would be governed by the provisions of this subsection, that entity shall deliver to the Commissioner, not less than 60 days prior to the offering, a notice of the planned stock offering and all of the following information:

- (1) The total number of shares intended to be offered.
- (2) The intended date of sale.
- (3) Evidence the stock is regularly traded on one of the public exchanges specified in this subsection.
- (4) A record of the trading price and trading volume of the stock during the prior 52 weeks.

The Commissioner shall be deemed to have approved the sale unless, within 60 days following receipt of such notice, the Commissioner issues an objection to the sale. If the Commissioner issues an objection to the sale, the application process set forth in subsections (a) through (g) of this section shall be followed to determine whether the Commissioner approves of the proposed sale.

(i) Approval of a stock offering obtained under either subsection (g) or (h) of this section shall expire 120 days following the date of the approval or deemed approval, except as otherwise provided by order of the Commissioner.

(j) No prospectus, information, sales material, or sales presentation by the applicant, or by any representative, agent, or affiliate of the applicant, shall contain a representation that the Commissioner has endorsed the price, price range, or any other information relating to the stock.

(k) No company making a stock offering under this section shall engage in any of the following practices:

- (1) Borrow funds from the mutual insurance holding company, or its subsidiaries and affiliates, to finance the purchase of any portion of a stock offering.
- (2) Pay any commissions, "special fees," or any other special payments or extraordinary compensation to officers, directors, interested persons, and affiliates for arranging, promoting, aiding, or assisting in reorganization to a mutual insurance holding company or for arranging, promoting, aiding, assisting, or participating in the structuring and placement of a stock offering.
- (3) Enter into an understanding or agreement transferring legal or beneficial ownership of stock to another person to avoid the requirements of this Part.

"§ 58-10-320. Regulation of holding company system.

(a) All material transactions, as that term is defined under Part 3 of this Article, between or among subsidiaries and affiliates of the mutual insurance holding company, must, after review and exercise of director duties by the directors of the mutual insurance holding company, be approved by a majority of the directors of the mutual insurance holding company as being fair and reasonable.

(b) If the Commissioner determines that activities within a mutual insurance holding company system have violated provisions of the General Statutes of North Carolina or the North Carolina Administrative Code or acted to circumvent requirements or prohibitions contained in the General Statutes or Administrative Code, the Commissioner may prohibit or order rescission of any transaction relating to those activities.

"§ 58-10-325. Reporting of stock ownership and transactions.

(a) Any director or officer of a mutual insurance holding company, its subsidiary, or affiliate, who acquires directly or indirectly the beneficial ownership of any security issued by any intermediate holding company or any insurance company subsidiary of an intermediate holding company or mutual insurance holding company shall, within 15 days following the transaction, file with the Commissioner a statement of the transaction on the form prescribed by the Commissioner.

(b) A mutual insurance holding company, and its subsidiaries and affiliates, shall file with the Commissioner, within 15 days of receipt, copies of Form 3, Form 4, and Schedule 13D, or any equivalent filings, such filings made under the federal Securities Exchange Act of 1934, as amended."

SECTION 2. G.S. 58-31-40 reads as rewritten:

"§ 58-31-40. Commissioner to inspect State property.

(a) The Commissioner shall, at least once every year shall, as often as is required in the fire code adopted by the North Carolina Building Code Council or more often if the Commissioner considers it necessary, visit, inspect, and thoroughly examine every State property to analyze and determine its protection from fire, including the property's occupants or contents. The Commissioner shall notify in writing the agency or official in charge of the property of any defect noted by the Commissioner or any improvement considered by the Commissioner to be necessary, and a copy of that notice shall be forwarded by the Commissioner to the Department of Administration.

(b) No agency or person authorized or directed by law to select a plan or erect a building comprising 20,000 square feet or more for the use of any county, city, or school district shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents.

(c) Repealed by Session Laws 2009-474, s. 1, effective October 1, 2009."

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:25 p.m. on the 12th day of July, 2012.

Session Law 2012-162

S.B. 836

AN ACT TO IMPROVE THE RATE-MAKING PROCESS BY REQUIRING THE DEPARTMENT OF INSURANCE TO ACCEPT PUBLIC COMMENT ON ALL PROPERTY INSURANCE RATE FILINGS, BY PROVIDING THE COMMISSIONER WITH THE POWER TO SPECIFY THE APPROPRIATE RATE LEVEL OR LEVELS BETWEEN THE CURRENT RATE AND THE FILED RATE UPON A FINDING THAT A RATE FILING DOES NOT COMPLY WITH APPLICABLE LAW, BY PROVIDING THAT THE COST OF REINSURANCE BE INCLUDED AS A FACTOR IN RATE

MAKING AND REQUIRING CERTAIN SUPPORTING INFORMATION ON REINSURANCE COSTS IN A FILING, BY REQUIRING THAT THE RATE BUREAU CREATE A RATING PLAN FOR A PROPERTY INSURANCE POLICY THAT EXCLUDES COVERAGE FOR THE PERILS OF WINDSTORM AND HAIL, AND BY REQUIRING THAT THE RATE BUREAU AND THE DEPARTMENT OF INSURANCE STUDY THE FAIRNESS AND EFFICACY OF THE CURRENT PROPERTY INSURANCE GEOGRAPHIC RATE TERRITORIES, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON PROPERTY INSURANCE RATE MAKING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-36-15(b) reads as rewritten:

"(b) A filing by the Rate Bureau shall be open to public inspection immediately upon submission to the Commissioner. All property insurance rate filings shall be open to the public except as provided in this Article where necessary to maintain the confidentiality of certain testimony. At least 30 days before a notice of hearing issues, the Department shall receive comments from the public regarding a property insurance rate filing. The comments may be provided to the Department by e-mail, mail, or in person at a time and place set by the Department. All public comments shall be shared with the Rate Bureau in a timely manner."

SECTION 2. G.S. 58-36-20(a) reads as rewritten:

"(a) At any time within 50 days after the date of any filing, the Commissioner may give written notice to the Bureau specifying in what respect and to what extent the Commissioner contends the filing fails to comply with the requirements of this Article and fixing a date for hearing not less than 30 days from the date of mailing of such notice. Once begun, hearings must proceed without undue delay. At the hearing the burden of proving that the proposed rates are not excessive, inadequate, or unfairly discriminatory is on the Bureau. At the hearing the factors specified in G.S. 58-36-10 shall be considered. If the Commissioner after hearing finds that the filing does not comply with the provisions of this Article, he may issue his order determining wherein and to what extent such filing is deemed to be improper and fixing a date thereafter, within a reasonable time, after which the filing shall no longer be effective. In the event the Commissioner finds that the proposed rates are excessive, the Commissioner shall specify the overall rates, between the existing rates and the rates proposed by the Bureau filing, that may be used by the members of the Bureau instead of the rates proposed by the Bureau filing. In any such order, the Commissioner shall make findings of fact based on the evidence presented in the filing and at the hearing. Any order issued after a hearing shall be issued within 45 days after the completion of the hearing. If no order is issued within 45 days after the completion of the hearing, the filing shall be deemed to be approved."

SECTION 3. G.S. 58-36-10 is amended by adding a new subdivision to read:

"(7) Property insurance rates established under this Article may include a provision to reflect the cost of reinsurance to protect against catastrophic exposure within this State. Amounts to be paid to reinsurers, ceding commissions paid or to be paid to insurers by reinsurers, expected reinsurance recoveries, North Carolina exposure to catastrophic events relative to other states' exposure, and any other relevant information may be considered when determining the provision to reflect the cost of reinsurance."

SECTION 4. Article 36 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-36-42. Development of policy form or endorsement for residential property insurance that does not include coverage for perils of windstorm or hail.

With respect to residential property insurance under its jurisdiction, the Bureau shall develop an optional policy form or endorsement to be filed with the Commissioner for approval that provides residential property insurance coverage without coverage for the perils of

windstorm or hail. Insurers that sell such policies shall comply with the provisions of G.S. 58-44-60 and through such compliance shall be deemed to have given notice to all insured and persons claiming benefits under such policies that such policies do not include coverage for the perils of windstorm or hail."

SECTION 5. G.S. 58-44-60 reads as rewritten:

"§ **58-44-60.** **Notice to property insurance policyholder about flood, earthquake, mudslide, mudflow, and ~~landslide~~ landslide, and windstorm or hail insurance coverage.**

(a) Every insurer that sells residential or commercial property insurance policies that do not provide coverage for the perils of flood, earthquake, mudslide, mudflow, ~~or landslide~~ landslide, or windstorm or hail shall, upon the issuance and renewal of each policy, identify to the policyholder which of these perils are not covered under the policy. The insurer shall print the following warning, citing which peril is not covered, in Times New Roman 16-point font or other equivalent font and include it in the policy on a separate page immediately before the declarations page:

"WARNING: THIS PROPERTY INSURANCE POLICY DOES NOT PROTECT YOU AGAINST LOSSES FROM [FLOODS], [EARTHQUAKES], [MUDSLIDES], [MUDFLOWS], [~~LANDSLIDES~~], [~~LANDSLIDES~~], [WINDSTORM OR HAIL]. YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT TO DISCUSS YOUR OPTIONS FOR OBTAINING COVERAGE FOR THESE LOSSES. THIS IS NOT A COMPLETE LISTING OF ALL OF THE CAUSES OF LOSSES NOT COVERED UNDER YOUR POLICY. YOU SHOULD READ YOUR ENTIRE POLICY TO UNDERSTAND WHAT IS COVERED AND WHAT IS NOT COVERED."

(b) As used in this section, "insurer" includes an entity that sells property insurance under Articles 21, 45, or 46 of this Chapter."

SECTION 6. The North Carolina Rate Bureau, with the assistance of the Department of Insurance, shall study the current geographic territories established by the Bureau for rating purposes. The study shall address the following issues:

- (1) Whether risks of the same class and essentially the same hazard are charged premiums that are commensurate with the risk of loss, actuarially correct, and not unfairly discriminatory.
- (2) Whether geographic territories in the beach and coastal areas (as defined in G.S. 58-45-5) currently meet the standards and mandates set forth in G.S. 58-36-10(6).
- (3) Whether current technology and statistical data sources make possible any practical and cost-effective alternative to the geographic territory system for property insurance rate setting.

The Bureau shall submit a final report, including any recommendations for changes to the geographic territories or alternatives to the geographic territory rating system, to the 2013 General Assembly.

SECTION 7. Sections 4 and 5 of this act become effective December 1, 2012. Sections 6 and 7 of this act are effective when this act becomes law. The remainder of this act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:27 p.m. on the 12th day of July, 2012.

Session Law 2012-163

S.B. 521

AN ACT ABOLISHING THE RULE IN DUMPOR'S CASE AND CONCERNING BROKER PRICE OPINIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 41 of the General Statutes is amended by adding a new section to read as follows:

"§ 41-6.4. Rule in Dumpor's Case abolished.

- (a) The rule of property known as the Rule in Dumpor's Case is abolished.
- (b) This section shall become effective October 1, 2012, and applies to transfers of property that take effect on or after that date.

SECTION 2. Chapter 93A of the General Statutes is amended by adding a new Article to read:

"Article 6.

"Broker Price Opinions and Comparative Market Analyses.

"§ 93A-82. Definitions.

As used in this Article, the terms "broker price opinion" and "comparative market analysis" mean an estimate prepared by a licensed real estate broker that details the probable selling price or leasing price of a particular parcel of or interest in property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable properties, but does not include an automated valuation model.

"§ 93A-83. Broker price opinions and comparative market analyses for a fee.

(a) Authorized. – A person licensed under this Chapter, other than a provisional broker, may prepare a broker price opinion or comparative market analysis and charge and collect a fee for the opinion if:

- (1) The license of that licensee is active and in good standing; and
- (2) The broker price opinion or comparative market analysis meets the requirements of subsection (c) of this section.
- (3) The requirements of this Article shall not apply to any broker price opinion or comparative market analysis performed by a licensee for no fee or consideration.

(b) For Whom Opinion May Be Prepared. – Notwithstanding any provision to the contrary, a person licensed under this Chapter may prepare a broker price opinion or comparative market analysis for any of the following:

- (1) An existing or potential seller of a parcel of real property.
- (2) An existing or potential buyer of a parcel of real property.
- (3) An existing or potential lessor of a parcel of or interest in real property.
- (4) An existing or potential lessee of a parcel of or interest in real property.
- (5) A third party making decisions or performing due diligence related to the potential listing, offering, sale, option, lease, or acquisition price of a parcel of or interest in real property.
- (6) An existing or potential lienholder or other third party for any purpose other than as the basis to determine the value of a parcel of or interest in property, for a mortgage loan origination, including first and second mortgages, refinances, or equity lines of credit.
- (7) The provisions of this subsection do not preclude the preparation of a broker price opinion or comparative market analysis to be used in conjunction with or in addition to an appraisal.

(c) Required Contents of a Broker Price Opinion or Comparative Market Analysis. – A broker price opinion or comparative market analysis shall be in writing and conform to the standards provided in this Article that may include, but are not limited to, the following:

- (1) A statement of the intended purpose of the broker price opinion or comparative market analysis.
- (2) A brief description of the subject property and property interest to be priced.
- (3) The basis of reasoning used to reach the conclusion of the price, including the applicable market data or capitalization computation.
- (4) Any assumptions or limiting conditions.
- (5) A disclosure of any existing or contemplated interest of the broker issuing the broker price opinion, including the possibility of representing the landlord/tenant or seller/buyer.
- (6) The effective date of the broker price opinion.
- (7) The name and signature of the broker issuing the broker price opinion and broker license number.
- (8) The name of the real estate brokerage firm for which the broker is acting.
- (9) The signature date.
- (10) A disclaimer stating that "This opinion is not an appraisal of the market value of the property, and may not be used in lieu of an appraisal. If an appraisal is desired, the services of a licensed or certified appraiser shall be obtained. This opinion may not be used by any party as the primary basis to determine the value of a parcel of or interest in real property for a mortgage loan origination, including first and second mortgages, refinances, or equity lines of credit."
- (11) A copy of the assignment request for the broker price opinion or comparative market analysis.

(d) Rules. – The North Carolina Real Estate Commission shall have the power to adopt rules that are not inconsistent with the provisions in this Article.

(e) Additional Requirements for Electronic or Form Submission. – In addition to the requirement of subsection (c) of this section, if a broker price opinion is submitted electronically or on a form supplied by the requesting party, the following provisions apply:

- (1) A signature required by subdivision (7) of subsection (c) of this section may be an electronic signature, as defined in G.S. 47-16.2.
- (2) A signature required by subdivision (7) of subsection (c) of this section and the disclaimer required by subdivision (10) of subsection (c) of this section may be transmitted in a separate attachment if the electronic format or form supplied by the requesting party does not allow additional comments to be written by the licensee. The electronic format or form supplied by the requesting party shall do the following:
 - a. Reference the existence of a separate attachment.
 - b. Include a statement that the broker price opinion or comparative market analysis is not complete without the attachment.

(f) Restrictions. – Notwithstanding any provisions to the contrary, a person licensed pursuant to this Chapter may not knowingly prepare a broker price opinion or comparative market analysis for any purpose in lieu of an appraisal when an appraisal is required by federal or State law. A broker price opinion or comparative market analysis that estimates the value of or worth a parcel of or interest in real estate rather than sales or leasing price shall be deemed to be an appraisal and may not be prepared by a licensed broker under the authority of this Article, but may only be prepared by a duly licensed or certified appraiser, and shall meet the regulations adopted by the North Carolina Appraisal Board. A broker price opinion or comparative market analysis shall not under any circumstances be referred to as a valuation or appraisal.

(g) No Report of Predetermined Result. – A broker price opinion or comparative market analysis shall not include the reporting of a predetermined result."

SECTION 3. G.S. 93E-1-3 reads as rewritten:

"§ 93E-1-3. When registration, license, or certificate not required.

(a) No trainee registration, license, or certificate shall be issued under the provisions of this Chapter to a partnership, association, corporation, firm, or group. However, nothing herein shall preclude a registered trainee or licensed or certified real estate appraiser from rendering appraisals for or on behalf of a partnership, association, corporation, firm, or group, provided the appraisal report is prepared by a licensed or certified real estate appraiser or by a registered trainee under the immediate personal direction of, the licensed or certified real estate appraiser and is reviewed and signed by that licensed or certified appraiser.

(b) Repealed by Session Laws 2001-399, s. 1, effective October 1, 2001.

(c) Nothing in this Chapter shall preclude a real estate broker licensed under Chapter 93A of the General Statutes from performing a broker price opinion or comparative market analysis as defined in G.S. 93E-1-4, provided the person does not represent himself or herself as being a registered trainee or a licensed or certified real estate appraiser, and provided they follow the standards set forth in Article 6 of Chapter 93A. ~~A real estate broker may perform a comparative market analysis for compensation or other valuable consideration only for prospective or actual brokerage clients or for real property involved in an employee relocation program.~~

(d) Nothing in this Chapter shall abridge, infringe upon, or otherwise restrict the right to use the term "certified ad valorem tax appraiser" or any similar term by persons certified by the Department of Revenue to perform ad valorem tax appraisals, provided that the term is not used in a manner that creates the impression of certification by the State to perform real estate appraisals other than ad valorem tax appraisals.

(e) Nothing in this Chapter shall entitle a registered trainee or a licensed or certified real estate appraiser to appraise real estate for ad valorem tax purposes unless the person has first been certified by the Department of Revenue pursuant to G.S. 105-294.

(f) A trainee registration, license, or certificate is not required under this Chapter for:

- (1) Any person, partnership, association, or corporation that performs appraisals of property owned by that person, partnership, association, or corporation for the sole use of that person, partnership, association, or corporation;
- (2) Any court-appointed commissioner who conducts an appraisal pursuant to a judicially ordered evaluation of property;
- (3) Any person to qualify as an expert witness for court or administrative agency testimony, if otherwise qualified;
- (4) A person who appraises standing timber so long as the appraisal does not include a determination of value of any land;
- (5) Any person employed by a lender in the performance of appraisals with respect to which federal regulations do not require a licensed or certified appraiser; and
- (6) A person who performs ad valorem tax appraisals and is certified by the Department of Revenue under G.S. 105-294 or G.S. 105-296; however, any person who is registered, licensed, or certified under this Chapter and who performs any of the activities set forth in subdivisions (1) through (5) of this subsection must comply with all of the provisions of this Chapter. The provisions of this Chapter shall not apply to certified real estate appraisers who perform a broker price opinion or comparative market analysis pursuant to G.S. 93E-1-3(c), as long as the appraiser is licensed as a real estate broker by the North Carolina Real Estate Commission and does not refer to himself or herself as an appraiser in the broker price opinion or comparative market analysis.

SECTION 4. G.S. 93E-1-4 reads as rewritten:

"§ 93E-1-4. Definitions.

When used in this Chapter, unless the context otherwise requires, the term:

- (1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion as to the value of identified real estate or specified interests therein performed for compensation or other valuable consideration.
- (2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased appraisal.
- (3) "Appraisal Board" or "Board" means the North Carolina Appraisal Board established under G.S. 93E-1-5.
- (4) "Appraisal Foundation" or "Foundation" means The Appraisal Foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.
- (5) "Appraisal report" means any communication, written or oral, of an appraisal.
- (6) "Certificate" means that document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for certification as a certified real estate appraiser and bearing a certificate number assigned by the Board.
- (7) "Certificate holder" means a person certified by the Board under the provisions of this Chapter.
- (7a) "Certified general real estate appraiser" means a person who holds a current, valid certificate as a certified general real estate appraiser issued under the provisions of this Chapter.
- (7b) "Certified residential real estate appraiser" means a person who holds a current, valid certificate as a certified residential real estate appraiser issued under the provisions of this Chapter.
- (7c) "Comparative market analysis" and "broker price opinion" mean means the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property by a licensed real estate broker. an estimate prepared by a licensed real estate broker that details the probable selling price or leasing price of a particular parcel of or interest in property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable properties, but does not include an automated valuation model.
- (8) "License" means that document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for licensure as a licensed real estate appraiser and bearing a license number assigned by the Board.
- (8a) "Licensed residential real estate appraiser" means a person who holds a current, valid license as a licensed residential real estate appraiser issued under the provisions of this Chapter.
- (9) "Licensee" means a person licensed by the Board under the provisions of this Chapter.
- (10) "Real estate" or "real property" means land, including the air above and ground below and all appurtenances and improvements thereto, as well as any interest or right inherent in the ownership of land.
- (11) "Real estate appraiser" or "appraiser" means a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.
- (12) "Real estate appraising" means the practice of developing and communicating real estate appraisals.
- (13) "Residential real estate" means any parcel of real estate, improved or unimproved, that is exclusively residential in nature and that includes or is

intended to include a residential structure containing not more than four dwelling units and no other improvements except those which are typical residential improvements that support the residential use for the location and property type. A residential unit in a condominium, town house, or cooperative complex, or planned unit development is considered to be residential real estate.

- (14) through (16) Repealed by Session Laws 2007-506, s. 4, effective October 1, 2007.
- (17) "Temporary appraiser licensure or certification" means the issuance of a temporary license or certificate by the Board to a person licensed or certified in another state who enters this State for the purpose of completing a particular appraisal assignment.
- (18) "Trainee", "registered trainee", or "trainee real estate appraiser" means a person who holds a current, valid registration as a trainee real estate appraiser issued under the provisions of this Chapter.
- (19) "Trainee registration" or "registration as a trainee" means the document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements of registration as a trainee real estate appraiser and bearing a registration number assigned by the Board."

SECTION 5. G.S. 93E-1-12 is amended by adding a new subsection to read:

"(e) No appraiser shall be disciplined for completing an appraisal that includes a reduced scope of work or reporting level as long as it is appropriate for the intended use and is performed in accordance with the Uniform Standards of Professional Appraisal Practice."

SECTION 6. This act becomes effective October 1, 2012. Rule-making authority granted by this act to the North Carolina Real Estate Commission shall become effective July 1, 2012.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:28 p.m. on the 12th day of July, 2012.

Session Law 2012-164

S.B. 444

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS.

The General Assembly of North Carolina enacts:

STATEMENT OF PURPOSE

SECTION 1. The purpose of this act is to authorize (i) the planning or construction by certain constituent institutions of The University of North Carolina of the capital improvements projects listed in this act for the respective institutions, (ii) the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, hospital receipts from patient care, 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 unless previously authorized by General Statute, and (iii) other expenditures for improvements.

UNC CAPITAL IMPROVEMENT PROJECTS

SECTION 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act,

including by revenue bonds, by special obligation bonds as authorized in Section 5 of this act, or by both, are as follows:

Appalachian State University	
Winkler Residence Hall – Supplement	\$ 3,000,000
Belk Residence Hall	9,765,000
East Carolina University	
Belk Residence Hall Demolition and Reconstruction	40,000,000
North Carolina State University	
Phytotron Energy Savings Performance Contract	6,200,000
The University of North Carolina at Asheville	
Mountain Area Health Education Center (MAHEC) Facility Acquisition	4,750,000
The University of North Carolina at Chapel Hill	
Chilled Water Infrastructure Improvements	11,700,000
Steam and Hot Water Infrastructure Improvements	12,000,000
Craige Parking Deck – Supplement	8,000,000
The University of North Carolina at Charlotte	
Campus Infrastructure Development	49,500,000
Residence Hall Phase XII	38,407,410
Cedar/Hickory/Sycamore (Phase IV-A) Renovation	10,000,000
The University of North Carolina at Greensboro	
1600 W. Lee Street Parking Lot Improvements	3,432,000
Reynolds and Grogan Residence Hall Renovation	16,640,000
Winston-Salem State University	
Restore the Core – Phase I (Hill Hall)	13,500,000
New Student Housing Building 1 Acquisition	14,500,000
North Campus Acquisitions and Improvements	7,000,000

SECTION 3. The capital improvements projects, and their respective costs, authorized by this act to be planned and financed as provided in Section 1 of this act, including by revenue bonds, by special obligation bonds as authorized in Section 5 of this act, or by both, are as follows:

North Carolina A&T State University	
New Student Center	\$ 5,000,000
Williams Dining Hall Kitchen Replacement	500,000
North Carolina Central University	
New – Student Health Services Center – Phase 1	700,000
The University of North Carolina at Chapel Hill	
Athletic Facilities Master Plan and Phase 1 Improvements	5,000,000
Odum Village Replacement	5,000,000
Winston-Salem State University	
Restore the Core – Phase II (Hauser, Pegram, Physical Plant)	1,500,000

SECTION 4. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 5. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Section 2 and Section 3 of this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Section 2 and Section 3 of this act plus five percent (5%) of such amount to pay issuance expenses, fund reserve funds, pay capitalized interest, and pay other related additional costs, plus any increase in the specific project costs authorized by the Director of the Budget pursuant to Section 4 of this act.

SECTION 6. With respect to UNC-Chapel Hill's Chilled Water Infrastructure Improvements capital project, the institution may accomplish construction and financing notwithstanding the requirement in G.S. 116D-22(5) as to location at the institution and may accomplish the project either through (i) direct ownership of the project or (ii) an arrangement with Orange Water and Sewer Authority.

SECTION 7. With respect to Winston-Salem State University's New Student Housing Building 1 Acquisition project, the institution may accomplish construction, acquisition, and financing through arrangements to, from, and with Winston-Salem State University Foundation, Inc., and Winston-Salem State University Housing Foundation, LLC.

NON-GENERAL FUND CAPITAL IMPROVEMENT AUTHORIZATIONS

SECTION 8. The General Assembly authorizes the following capital projects to be funded with receipts or from other non-General Fund sources available to the appropriate department:

Name of Project	Amount of Non-General Fund Funding Authorized for FY 2012-2013
Department of Public Safety	
Training Site Improvements	\$ 620,000
Aviation Facilities Improvements	600,000
Logistics Facilities Improvements	310,000
Career Tech. Ed. Ctr. – Stonewall Jackson Y.D.C.	163,332
Storage Sheds – Statewide	51,765
Readiness Centers Improvements	40,000
Track and Field Facility – Stonewall Jackson Y.D.C.	161,046
Department of Agriculture	
Parking Improvement/Expansion. – Raleigh Farmers Market	200,000
Wholesale Dock Enclosure – Raleigh Farmers Market	750,000
Phase II Greenhouse Exp. – Additional Funding – Tidewater RS	200,000
Phase II – Calf Barn Construction – Piedmont RS	150,000
Forest Road Construction	150,000
HVAC Campus Improvements – State Fairgrounds	2,500,000
Campus Infrastructure – State Fairgrounds	3,000,000
Renovations to Existing Buildings – State Fairgrounds	3,000,000
Hunt Horse Complex Site Rep & Improvements – State Fairgrounds	3,000,000
Temperature Monitoring System – Constable Laboratory	100,000
Cooler – Food Distribution Salisbury Warehouse	200,000
Market Renovations – Raleigh Farmers Market	1,000,000

Improvements/Renovations – Southeastern NC Agriculture Center	1,000,000
Wholesale Dock Improvements – Western NC Farmers Market	300,000
Department of Cultural Resources	
NC Maritime Museum Gallants Channel Multi-Use Facility	1,115,000
N.C. Museum of Art Trail Improvement Project	370,000
Duke Homestead Picnic Shelter	175,000
Department of Environment and Natural Resources	
Sound Side Dock & Education Gazebo at Roanoke Is. Aquarium	350,000
NC Zoo – Solar Pointe Restrooms	400,000
Wildlife Resources Commission	
Agency Land Purchase	3,750,000
Table Rock Hatchery Building Replacement	75,000
Watha Hatchery Building Replacement	300,000
New Construction of Fishing Access Areas	240,000
New Construction of Boating Access Areas	800,000
Renovations of Existing Boating Access Areas	800,000
ADA Initiative of Existing Boating Access Areas	280,000
Infrastructure Repair and Renovation	1,500,000
Department of Administration	
Sandhills Cemetery – Committal Structure	200,000
TOTAL AMOUNT OF NON-GENERAL FUND CAPITAL PROJECTS AUTHORIZED	\$27,851,143

SECTION 9. The Division of Veterans Affairs of the Department of Administration shall report on or before January 1, 2013, to the Joint Legislative Commission on Governmental Affairs on the status of the Committal Structure project located at the Sandhills Cemetery.

SECTION 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:29 p.m. on the 12th day of July, 2012.

Session Law 2012-165

S.B. 105

AN ACT TO INCREASE THE PENALTY FOR CERTAIN SECOND DEGREE MURDERS TO CLASS B1 FELONIES, AND CREATE A GRADUATED SCALE OF PENALTIES FOR DEATHS CAUSED BY DRIVING WHILE IMPAIRED.

Whereas, the State must prove that the defendant acted with malice to obtain a conviction of second degree murder; and

Whereas, North Carolina case law holds that malice may be shown in three different ways: by hatred, ill will, or spite; a condition of the mind which prompts a person to take the life of another intentionally or to intentionally inflict serious bodily injury which proximately results in another's death, without just cause, excuse or justification; or the commission of an inherently dangerous act or omission, in such a reckless and wanton manner as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief; Now, therefore;

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-17 reads as rewritten:

"§ 14-17. **Murder in the first and second degree defined; punishment.**

(a) A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 18 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life without parole. ~~All other kinds of murder, including that which shall be proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or methamphetamine, when the ingestion of such substance causes the death of the user, shall be deemed murder in the second degree, and any person who commits such murder shall be punished as a Class B2 felon.~~

(b) A murder other than described in subsection (a) of this section or in G.S. 14-23.2 shall be deemed second degree murder. Any person who commits second degree murder shall be punished as a Class B1 felon, except that a person who commits second degree murder shall be punished as a Class B2 felon in either of the following circumstances:

- (1) The malice necessary to prove second degree murder is based on an inherently dangerous act or omission, done in such a reckless and wanton manner as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief.
- (2) The murder is one that was proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or methamphetamine, and the ingestion of such substance caused the death of the user."

SECTION 2. G.S. 20-141.4(b) reads as rewritten:

"(b) Punishments. – Unless the conduct is covered under some other provision of law providing greater punishment, the following classifications apply to the offenses set forth in this section:

- (1) Repeat felony death by vehicle is a Class B2 felony.
- ~~(1)~~(1a) Aggravated felony death by vehicle is a Class D felony. Notwithstanding the provisions of G.S. 15A-1340.17, the court shall sentence the defendant in the aggravated range of the appropriate Prior Record Level.
- (2) Felony death by vehicle is a Class E–D felony. Notwithstanding the provisions of G.S. 15A-1340.17, intermediate punishment is authorized for a defendant who is a Prior Record Level I offender.
- (3) Aggravated felony serious injury by vehicle is a Class E felony.
- (4) Felony serious injury by vehicle is a Class F felony.
- (5) Misdemeanor death by vehicle is a Class A1 misdemeanor."

SECTION 3. G.S. 20-141.4(a6) reads as rewritten:

"(a6) Repeat Felony Death by Vehicle Offender. – A person commits the offense of repeat felony death by vehicle if:

- (1) The person commits an offense under subsection (a1) or subsection (a5) of this section; and
- (2) The person has a previous conviction under:

- a. Subsection (a1) of this section;
 - b. Subsection (a5) of this section; or
 - c. G.S. 14-17 or G.S. 14-18, and the basis of the conviction was the unintentional death of another person while engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2.
- The pleading and proof of previous convictions shall be in accordance with the provisions of G.S. 15A-928.

~~A person convicted under this subsection shall be subject to the same sentence as if the person had been convicted of second degree murder."~~

SECTION 4. Sections 1, 2, and 3 of this act become effective December 1, 2012, and apply to offenses committed on or after that date. The remainder of the act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:31 p.m. on the 12th day of July, 2012.

Session Law 2012-166

H.B. 320

AN ACT TO PROVIDE FLEXIBILITY FOR CERTAIN WATER RESOURCES PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. If House Bill 950, 2012 Regular Session, becomes law, then notwithstanding any other provision of law, the funds appropriated for the Carolina Beach Renourishment Project in Section 26.2(a) of that act may be allocated to and used for the Carolina Beach Renourishment Project and the Kure Beach Renourishment Project. These funds shall be allocated between these two projects in amounts determined by the New Hanover Board of County Commissioners.

SECTION 2. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

Became law upon approval of the Governor at 4:33 p.m. on the 12th day of July, 2012.

Session Law 2012-167

H.B. 457

AN ACT PROVIDING THAT THE EASTERN JOINT MUNICIPAL POWER AGENCY SHALL HOLD A PUBLIC MEETING PRIOR TO CHANGING RATES AND THE MUNICIPAL ELECTRIC UTILITIES THAT ARE MEMBERS OF THE EASTERN POWER AGENCY SHALL HOLD A PUBLIC HEARING BEFORE CHANGING ELECTRIC RATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159B-17 reads as rewritten:

"§ 159B-17. Revenues.

(a) A municipality is hereby authorized to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its electric system or its interest in any joint project. Before it revises its rates, fees or charges as authorized under this subsection, a municipality shall hold a public hearing on the matter. A notice of the hearing shall be published at least once a week for two successive weeks in a newspaper having general circulation in the municipality. The notice shall state that the public hearing will be held in connection with the municipality's action to revise its rates, fees, or charges authorized in this section and state the amount of the proposed revision. At the hearing, any retail electric

customer of the municipality may appear and be heard on the proposed revision to the rates, fees, or charges. The provisions of G.S. 160A-81 shall apply to any public hearing held under this subsection. The provisions of this subsection relating to a public hearing shall not apply to action required to be taken for a municipality by the Local Government Commission, in accordance with G.S. 159-181(c), or to action required to be taken by a municipality to revise its rates, fees or charges authorized in this subsection if the revision is required to be implemented immediately as a result of a catastrophic event or to avoid impairing the ability of the municipality to comply with applicable law or its contractual obligations relating to its outstanding bonds or other indebtedness. For so long as any bonds of a municipality are outstanding and unpaid, the rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its electric system, and its interest in any joint project, and all necessary repairs, replacements or renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds and other evidences of indebtedness payable from said revenues, to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, to pay when due the principal of, premium, if any, and interest on all general obligation bonds heretofore or hereafter issued to finance additions, improvements and betterments to its electric system, and to pay any and all amounts which the municipality may be obligated to pay from said revenues by law or contract.

(b) A joint agency is hereby authorized to fix, charge, and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its projects or otherwise as authorized by this Chapter. A joint agency may only take action to change the rates, fees, or charges authorized in this subsection in a public meeting. Notice of the public meeting shall be given to each municipality that is a member of the joint agency. A notice of the meeting shall be published at least once a week for two successive weeks in a newspaper having general circulation in each municipality that is a member of the joint agency. The notice shall state that the public meeting will be held in connection with the joint agency's action to revise its rates, fees, or charges authorized in this subsection and state the amount of the proposed revision. The provisions of this subsection relating to publication of a notice shall not apply to action required to be taken by a joint agency to revise its rates, fees or charges authorized in this subsection if the revision is required to be implemented immediately as a result of a catastrophic event or to avoid impairing the ability of the joint agency to comply with applicable law or its contractual obligations relating to its outstanding bonds or other indebtedness. For so long as any bonds of a joint agency are outstanding and unpaid, the rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its projects, and all necessary repairs, replacements or renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds and other evidences of indebtedness payable from said revenues, to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, and to pay any and all amounts which the joint agency may be obligated to pay from said revenues by law or contract.

(c) Any pledge of revenues, securities or other moneys made by a municipality, joint agency or joint municipal assistance agency pursuant to this Chapter shall be valid and binding from the date the pledge is made. The revenues, securities, and other moneys so pledged and then held or thereafter received by the municipality, joint agency or joint municipal assistance agency or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the municipality, joint agency or joint municipal assistance agency without regard to whether such parties have notice thereof. The resolution or trust agreement or any financing statement, continuation statement or other instrument by which a pledge of revenues, securities or other moneys is created need not be filed or recorded in any manner."

SECTION 2. G.S. 160A-314 is amended by adding a new subsection to read:

"(a3) Revisions in the rates, fees, or charges for electric service for cities that are members of the North Carolina Eastern Municipal Power Agency must comply with the public hearing provisions applicable to those cities under G.S. 159B-17."

SECTION 3. Section 1 of this act becomes effective October 1, 2012, and only applies to all rates, fees, or charges for electric service provided by the North Carolina Eastern Municipal Power Agency (NCEMPA) or a member city or town of the NCEMPA on or after that date. The following cities and towns are members of the North Carolina Eastern Municipal Power Agency: Apex, Ayden, Belhaven, Benson, Clayton, Edenton, Elizabeth City, Farmville, Fremont, Greenville, Hamilton, Hertford, Hobgood, Hookerton, Kinston, LaGrange, Laurinburg, Louisburg, Lumberton, New Bern, Pikeville, Red Springs, Robersonville, Rocky Mount, Scotland Neck, Selma, Smithfield, Southport, Tarboro, Wake Forest, Washington, and Wilson. Section 2 of this act is effective October 1, 2012. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

Became law upon approval of the Governor at 4:34 p.m. on the 12th day of July, 2012.

Session Law 2012-168

S.B. 141

AN ACT TO CREATE NEW FIRST DEGREE TRESPASS OFFENSES, TO MAKE VARIOUS CHANGES REGARDING THE PROCEDURES FOR A MOTION FOR APPROPRIATE RELIEF, TO AMEND THE PROCEDURE FOR IMMEDIATE LICENSE REVOCATIONS FOR PROVISIONAL LICENSEES CHARGED WITH CERTAIN CRIMINAL MOVING VIOLATIONS, TO CLARIFY THAT CERTAIN CHANGES TO PAYABLE ON DEATH CONTRACTS DID NOT CHANGE THE PROCEDURES FOR CREATING THOSE CONTRACTS, TO ESTABLISH A RESEARCH AND PLANNING SECTION WITHIN THE DEPARTMENT OF PUBLIC SAFETY, TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO DESIGNATE ITS RESEARCH AND PLANNING SECTION AS THE SINGLE STATE AGENCY RESPONSIBLE FOR THE COORDINATION AND IMPLEMENTATION OF REENTRY POLICY INITIATIVES, TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO CONTINUE ITS EFFORTS TO ASSIST OFFENDERS IN SUCCESSFULLY REENTERING SOCIETY, AND TO EXTEND THE TIME FOR LOCAL FORENSIC SCIENCE LABS TO OBTAIN ACCREDITATION AND FOR CERTAIN FORENSIC SCIENTISTS TO OBTAIN CERTIFICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-159.12 reads as rewritten:

"§ 14-159.12. **First degree trespass.**

(a) **Offense.** – A person commits the offense of first degree trespass if, without authorization, he enters or remains:

- (1) On premises of another so enclosed or secured as to demonstrate clearly an intent to keep out intruders; or
- (2) In a building of another.

(b) ~~Classification.—First~~ Except as otherwise provided in subsection (c) or (d) of this section, first degree trespass is a Class 2 misdemeanor.

(c) Except as otherwise provided in subsection (d) of this section, a violation of subsection (a) of this section is a Class A1 misdemeanor if all of the following circumstances exist:

- (1) The offense is committed on the premises of any of the following:

- a. A facility that is owned or operated by an electric power supplier as defined in G.S. 62-133.8(a)(3) and that is either an electric generation facility, a transmission substation, a transmission switching station, a transmission switching structure, or a control center used to manage transmission operations or electrical power generating at multiple plant locations.
 - b. Any facility used or available for use in the collection, treatment, testing, storing, pumping, or distribution of water for a public water system.
 - c. Any facility, including any liquefied natural gas storage facility or propane air facility, that is owned or operated by a natural gas local distribution company, natural gas pipeline carrier operating under a certificate of public convenience and necessity from the Utilities Commission, municipal corporation operating a municipally owned gas distribution system, or regional natural gas district organized and operated pursuant to Article 28 of Chapter 160A of the General Statutes used for transmission, distribution, measurement, testing, regulating, compression, control, or storage of natural gas.
- (2) The person actually entered a building, or it was necessary for the person to climb over, go under, or otherwise surmount a fence or other barrier to reach the facility.
- (d) If, in addition to the circumstances set out in subsection (c) of this section, the violation also includes any of the following elements, then the offense is a Class H felony:
- (1) The offense is committed with the intent to disrupt the normal operation of any of the facilities described in subdivision (1) of subsection (c) of this section.
 - (2) The offense involves an act that places either the offender or others on the premises at risk of serious bodily injury.
- (e) As used in subsections (c) and (d) of this section, the term "facility" shall mean a building or other infrastructure."

SECTION 2.(a) G.S. 15A-1413 reads as rewritten:

"§ 15A-1413. Trial judges empowered to ~~act~~; assignment of motions for appropriate relief.

(a) A motion for appropriate relief made pursuant to G.S. 15A-1415 may be heard and determined in the trial division by any judge ~~who~~ who (i) is empowered to act in criminal matters 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, in which the judgment was ~~entered~~ entered and (ii) is assigned pursuant to this section to review the motion for appropriate relief and take the appropriate administrative action to dispense with the motion.

(b) The judge who presided at the trial is empowered to act upon a motion for appropriate relief made pursuant to G.S. 15A-1414. ~~He~~ The judge may act even though ~~he~~ the judge is in another district or even though ~~his~~ the judge's commission has ~~expired~~ expired; however, if the judge who presided at the trial is still unavailable to act, the senior resident superior court judge or the chief district court judge, as appropriate, shall assign a judge who is empowered to act under subsection (a) of this section.

~~(c) When a motion for appropriate relief may be made before a judge who did not hear the case, he may, if it is practicable to do so, refer all or a part of the matter for decision to the judge who heard the case.~~

(d) All motions for appropriate relief filed in superior court shall, when filed, be referred to the senior resident superior court judge, who shall assign the motion as provided by this section for review and administrative action, including, as may be appropriate, dismissal, calendaring for hearing, entry of a scheduling order for subsequent events in the case, or other appropriate actions.

All motions for appropriate relief filed in district court shall, when filed, be referred to the chief district court judge, who shall assign the motion as provided by this section for review and administrative action, including, as may be appropriate, dismissal, calendaring for hearing, entry of a scheduling order for subsequent events in the case, or other appropriate actions.

(e) The assignment of a motion for appropriate relief filed under G.S. 15A-1415 is in the discretion of the senior resident superior court judge or chief district court judge as appropriate."

SECTION 2.(b) G.S. 15A-1420 reads as rewritten:

"§ 15A-1420. Motion for appropriate relief; procedure.

(a) Form, Service, Filing.

(1) A motion for appropriate relief must:

a. Be made in writing unless it is made:

1. In open court;
2. Before the judge who presided at trial;
3. Before the end of the session if made in superior court; and
4. Within 10 days after entry of judgment;

b. State the grounds for the motion;

c. Set forth the relief sought;

c1. If the motion for appropriate relief is being made in superior court and is being made by an attorney, the attorney must certify in writing that there is a sound legal basis for the motion and that it is being made in good faith; and that the attorney has notified both the district attorney's office and the attorney who initially represented the defendant of the motion; and further, that the attorney has reviewed the trial transcript or made a good-faith determination that the nature of the relief sought in the motion does not require that the trial transcript be read in its entirety. In the event that the trial transcript is unavailable, instead of certifying that the attorney has read the trial transcript, the attorney shall set forth in writing what efforts were undertaken to locate the transcript; and

d. Be timely filed.

(2) A written motion for appropriate relief must be served in the manner provided in G.S. 15A-951(b). ~~When the written motion is made more than 10 days after entry of judgment, service of the motion and a notice of hearing must be made not less than five working days prior to the date of the hearing.~~ When a motion for appropriate relief is permitted to be made orally the court must determine whether the matter may be heard immediately or at a later time. If the opposing party, or his counsel if he is represented, is not present, the court must provide for the giving of adequate notice of the motion and the date of hearing to the opposing party, or his counsel if he is represented by counsel.

(3) A written motion for appropriate relief must be filed in the manner provided in G.S. 15A-951(c).

(4) An oral or written motion for appropriate relief may not be granted in district court without the signature of the district attorney, indicating that the State has had an opportunity to consent or object to the motion. However, the court may grant a motion for appropriate relief without the district attorney's signature 10 business days after the district attorney has been notified in open court of the motion, or served with the motion pursuant to G.S. 15A-951(c).

- (5) An oral or written motion for appropriate relief made in superior court and made by an attorney may not be granted by the court unless the attorney has complied with the requirements of sub-subdivision c1. of subdivision (1) of this subsection.
- (b) Supporting Affidavits.
- (1) A motion for appropriate relief made after the entry of judgment must be supported by affidavit or other documentary evidence if based upon the existence or occurrence of facts which are not ascertainable from the records and any transcript of the case or which are not within the knowledge of the judge who hears the motion.
- (2) The opposing party may file affidavits or other documentary evidence.
- (b1) Filing Motion With Clerk; Review of Motion by Judge.Clerk.
- (1) The proceeding shall be commenced by filing with the clerk of superior court of the district wherein the defendant was indicted a motion, with service on the district attorney in noncapital cases, and service on both the district attorney and Attorney General in capital cases.
- (2) The clerk, upon receipt of the motion, shall place the motion on the criminal docket. ~~The clerk shall promptly bring the motion, or a copy of the motion, to the attention of the resident judge or any judge holding court in the county or district.~~ When a motion is placed on the criminal docket, the clerk shall promptly bring the motion, or a copy of the motion, to the attention of the senior resident superior court judge or chief district court judge, as appropriate, for assignment to the appropriate judge pursuant to G.S. 15A-1413.
- (b2) Noncapital Cases. – Assignment of Motion for Review; Initial Review of Motion; Time Frame for Hearings and Ruling on Motion.
- (1) ~~In noncapital cases, the judge shall review the motion and enter an order whether the defendant should be allowed to proceed without the payment of costs, with respect to the appointment of counsel, and directing the State, if necessary, to file an answer.~~ In noncapital cases, the senior resident superior court judge or chief district court judge, as appropriate, shall, within 30 days of the filing of the motion, assign the motion for initial review to the appropriate judge as provided in G.S. 15A-1413.
- (2) The assigned judge, no later than 30 working days after the assignment, shall review the motion and issue a written initial review order that concludes the initial review of the motion in one of the following manners: (i) by dismissing the motion for lack of merit on its face, (ii) by directing the State, if necessary, to file an answer within 30 days from the date on which the initial review order was issued, or (iii) by dispensing with the requirement that the State file an answer and instead order a hearing. Unless the motion is dismissed, the initial review order shall also indicate whether the defendant shall be allowed to proceed without the payment of costs; indicate whether counsel shall be appointed; and calendar a hearing on the motion within the appropriate time period as set out in subdivisions (3) and (4) of this subsection.
- (3) Unless provided otherwise by this subsection, if the court determines that an evidentiary hearing is required, then the hearing must be held within 90 days from the date on which the initial review order was issued; if no evidentiary hearing is required, then the hearing must be held within 60 days from the date on which the initial review order was issued. If, in the initial review order, the court orders the State to file an answer and the court determines that an evidentiary hearing is required, then the evidentiary hearing must be held within 150 days from the date on which the initial review order was

issued; if the court determines that the hearing is not an evidentiary hearing, then the hearing must be held within 120 days from the date on which the initial review order was issued.

- (4) If the court determines pursuant to subdivision (2) of this subsection that counsel shall be appointed, the time periods provided in subdivision (3) of this subsection shall be calculated from the date of the appointment of counsel rather than the date of the initial review order and shall be extended for an additional 60 days.
- (5) The court shall provide notice of the date of the hearing to both the State and the defendant, or the defendant's counsel if defendant is represented by counsel, no less than five working days prior to the date of any hearing. The court, except for good cause shown as provided in subdivision (6) of this subsection, must rule on a motion within 60 days from the date that the hearing concludes.
- (6) Notwithstanding any other provision of this subsection, the court may, upon request of a party to the motion, grant an extension of time to comply with any deadline under this subsection, not to exceed 30 days. No subsequent request by the party to extend this deadline shall be granted unless the court enters a written order containing detailed findings of fact of extraordinary circumstances. Notwithstanding any other provision of this subsection, the senior resident superior court judge or chief district court judge, as appropriate, may, upon request of a judge assigned to review a motion for appropriate relief, grant to the assigned judge an extension of time to comply with any deadline under this subsection, not to exceed 30 days. No subsequent request by the assigned judge to extend this deadline shall be granted unless the senior resident superior court judge or the chief district court judge, as appropriate, enters a written order containing detailed findings of fact of extraordinary circumstances. The failure of the court to comply with the deadlines under this subsection is grounds for any party to petition the senior resident superior court judge or the chief district court judge, as appropriate, to reassign the motion of appropriate relief to a different judge empowered to act upon a motion for appropriate relief. The failure of the court to comply with the deadlines under this subsection also entitles any party to the motion for appropriate relief to seek a writ of mandamus to obtain compliance with the deadline.
- (7) Notwithstanding any other provision of this subsection, failure to meet a deadline under this subsection is not a ground for the summary granting of a motion for appropriate relief or other summary relief, including without limitation, ordering the release of the prisoner.

(b3) Capital Cases. – Review and Calendaring of Motion. – In capital cases, the judge shall review the motion and enter an order directing the State to file its answer within 60 days of the date of the order. If a hearing is necessary, the judge shall calendar the case for hearing without unnecessary delay.

(c) Hearings, Showing of Prejudice; Findings.

- (1) Any party is entitled to a hearing on questions of law or fact arising from the motion and any supporting or opposing information presented unless the court determines that the motion is without merit. The court must determine, on the basis of these materials and the requirements of this subsection, whether an evidentiary hearing is required to resolve questions of fact. Upon the motion of either party, the judge may direct the attorneys for the parties to appear before him for a conference on any prehearing matter in the case.

- (2) An evidentiary hearing is not required when the motion is made in the trial court pursuant to G.S. 15A-1414, but the court may hold an evidentiary hearing if it is appropriate to resolve questions of fact.
- (3) The court must determine the motion without an evidentiary hearing when the motion and supporting and opposing information present only questions of law. The defendant has no right to be present at such a hearing where only questions of law are to be argued.
- (4) If the court cannot rule upon the motion without the hearing of evidence, it must conduct a hearing for the taking of evidence, and must make findings of fact. The defendant has a right to be present at the evidentiary hearing and to be represented by counsel. A waiver of the right to be present must be in writing.
- (5) If an evidentiary hearing is held, the moving party has the burden of proving by a preponderance of the evidence every fact essential to support the motion.
- (6) A defendant who seeks relief by motion for appropriate relief must show the existence of the asserted ground for relief. Relief must be denied unless prejudice appears, in accordance with G.S. 15A-1443.
- (7) The court must rule upon the motion and enter its order accordingly. When the motion is based upon an asserted violation of the rights of the defendant under the Constitution or laws or treaties of the United States, the court must make and enter conclusions of law and a statement of the reasons for its determination to the extent required, when taken with other records and transcripts in the case, to indicate whether the defendant has had a full and fair hearing on the merits of the grounds so asserted.

(d) **Action on Court's Own Motion.** – At any time that a defendant would be entitled to relief by motion for appropriate relief, the court may grant such relief upon its own motion. The court must cause appropriate notice to be given to the parties.

(e) Nothing in this section shall prevent the parties to the action from entering into an agreement for appropriate relief, including an agreement as to any aspect, procedural or otherwise, of a motion for appropriate relief."

SECTION 3. G.S. 20-13.3 reads as rewritten:

"§ 20-13.3. Immediate civil license revocation for provisional licensees charged with certain offenses.

(a) **Definitions.** — As used in this section, the following words and phrases have the following meanings:

- (1) Clerk. — As defined in G.S. 15A-101(2).
- (2) Criminal moving violation. — A violation of Part 9 or 10 of Article 3 of this Chapter which is punishable as a misdemeanor or a felony offense. This term does not include the offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed, nor does it include equipment violations specified in Part 9 of Article 3 of this Chapter.
- (3) Judicial official. — As defined in G.S. 15A-101(5).
- (4) Provisional licensee. — A person under the age of 18 who has a limited learner's permit, a limited provisional license, or a full provisional license issued pursuant to G.S. 20-11.
- (5) Revocation report. — A sworn statement by a law enforcement officer containing facts indicating that the conditions of subsection (b) of this section have been met.

(b) **Revocations for Provisional Licensees Charged With Criminal Moving Violation.** — A provisional licensee's permit or license is subject to revocation under this section if a law enforcement officer has reasonable grounds to believe that the provisional licensee has

committed a criminal moving violation, the provisional licensee is charged with that offense, and the provisional licensee is not subject to a civil revocation pursuant to G.S. 20-16.5.

(c) Duty of Law Enforcement Officers to Notify Provisional Licensee and Report to Judicial Officials. — If a provisional licensee's permit or license is subject to revocation under this section, the law enforcement officer must execute a revocation report and must take the provisional licensee before a judicial official for an initial appearance report. It is the specific duty of the law enforcement officer to make sure that the report is expeditiously filed with a judicial official as required by this section. If no initial appearance is required on the underlying criminal moving violation at the time of the issuance of the charge, the law enforcement officer must verbally notify the provisional licensee that the provisional licensee's permit or license is subject to revocation pursuant to this section and must provide the provisional licensee with a written form containing notice of the process for revocation and hearing under this section.

(c1) Which Judicial Official Must Receive Report. – The judicial official with whom the revocation report must be filed is:

- (1) The judicial official conducting the initial appearance on the underlying criminal moving violation.
- (2) The clerk of superior court in the county in which the underlying criminal charge has been brought if no initial appearance is required.

(d) Judicial Official Must Receive Report; Procedure Upon Receipt of Report. Procedure If Report Filed With Judicial Official When Provisional Licensee Is Present.

— The If an initial appearance is required, the law enforcement officer must file the revocation report with the judicial official conducting the initial appearance on the underlying criminal moving violation. If a properly executed revocation report concerning a provisional licensee is filed with a judicial official when the person is present before that official, the judicial official shall, after completing any other proceedings involving the provisional licensee, determine whether there is probable cause to believe that the conditions of subsection (b) of this section have been met. If the judicial official determines there is such probable cause, the judicial official shall enter an order revoking the provisional licensee's permit or license. In addition to setting it out in the order, the judicial official shall personally inform the provisional licensee of the right to a hearing as specified in subsection (d2) of this section and that the provisional licensee's permit or license remains revoked pending the hearing. The period of revocation is for 30 days and begins at the time the revocation order is issued and continues for 30 additional calendar days. The judicial official shall give the provisional licensee a copy of the revocation order, which shall include the beginning date of the revocation and shall clearly state the final day of the revocation period and the date on which the provisional licensee's permit or license will again become valid. The provisional licensee shall not be required to surrender the provisional licensee's permit or license; however, the provisional licensee shall not be authorized to drive at any time or for any purpose during the period of revocation.

(d1) Procedure If Report Filed With Clerk of Court When Provisional Licensee Not Present. – When a clerk receives a properly executed report under subdivision (2) of subsection (c1) of this section and the provisional licensee named in the revocation report is not present before the clerk, the clerk shall determine whether there is probable cause to believe that the conditions of subsection (b) of this section have been met. If the clerk determines there is such probable cause, the clerk shall mail to the provisional licensee a revocation order by first-class mail. The order shall inform the provisional licensee that the period of revocation is for 30 days, that the revocation becomes effective on the fourth day after the order is deposited in the United States mail and continues for 30 additional calendar days, of the right to a hearing as specified in subsection (d2) of this section, and that the revocation remains in effect pending the hearing. The provisional licensee shall not be required to surrender the provisional licensee's permit or license; however, the provisional licensee shall not be authorized to drive at any time or for any purpose during the period of revocation.

(d2) Hearing Before Magistrate or Judge If Provisional Licensee Contests Validity of Revocation. – A provisional licensee whose permit or license is revoked under this section may request in writing a hearing to contest the validity of the revocation. The request may be made at the time of the person's initial appearance, or within 10 days of the effective date of the revocation to the clerk or a magistrate designated by the clerk, and may specifically request that the hearing be conducted by a district court judge. The Administrative Office of the Courts must develop a hearing request form for any provisional licensee requesting a hearing. Unless a district court judge is requested, the hearing must be conducted within the county by a magistrate assigned by the chief district court judge to conduct such hearings. If the provisional licensee requests that a district court judge hold the hearing, the hearing must be conducted within the district court district as defined in G.S. 7A-133 by a district court judge assigned to conduct such hearings. The revocation remains in effect pending the hearing, but the hearing must be held within three working days following the request if the hearing is before a magistrate or within ten working days if the hearing is before a district court judge. The request for the hearing must specify the grounds upon which the validity of the revocation is challenged, and the hearing must be limited to the grounds specified in the request. A witness may submit his evidence by affidavit unless he is subpoenaed to appear. Any person who appears and testifies is subject to questioning by the judicial official conducting the hearing, and the judicial official may adjourn the hearing to seek additional evidence if the judicial official is not satisfied with the accuracy or completeness of evidence. The provisional licensee contesting the validity of the revocation may, but is not required to, testify in his own behalf. Unless contested by the person requesting the hearing, the judicial official may accept as true any matter stated in the revocation report. If any relevant condition under subsection (b) of this section is contested, the judicial official must find by the greater weight of the evidence that the condition was met in order to sustain the revocation. At the conclusion of the hearing, the judicial official must enter an order sustaining or rescinding the revocation. The judicial official's findings are without prejudice to the provisional licensee contesting the revocation and to any other potential party as to any other proceedings, civil or criminal, that may involve facts bearing upon the conditions in subsection (b) of this section considered by the judicial official. The decision of the judicial official is final and may not be appealed in the General Court of Justice. If the hearing is not held and completed within three working days of the written request for a hearing before a magistrate or within ten working days of the written request for a hearing before a district court judge, the judicial official must enter an order rescinding the revocation, unless the provisional licensee contesting the revocation contributed to the delay in completing the hearing. If the provisional licensee requesting the hearing fails to appear at the hearing or any rescheduling thereof after having been properly notified, the provisional licensee forfeits the right to a hearing.

(e) Report to Division. — The clerk shall notify the Division of the issuance of a revocation order pursuant to this section within two business days of the issuance of the revocation order. The notification shall identify the person whose provisional license has been revoked and specify the beginning and end date of the revocation period.

(f) Effect of Revocations. — A revocation under this section revokes a provisional licensee's privilege to drive in North Carolina. Revocations under this section are independent of and run concurrently with any other revocations, except for a revocation pursuant to G.S. 20-16.5. Any civil revocation issued pursuant to G.S. 20-16.5 for the same underlying conduct as a revocation under this section shall have the effect of terminating a revocation pursuant to this section. No court imposing a period of revocation following conviction for an offense involving impaired driving may give credit for any period of revocation imposed under this section. A person whose license is revoked pursuant to this section is not eligible to receive a limited driving privilege.

(g) Designation of Proceedings. — Proceedings under this section are civil actions and must be identified by the caption "In the Matter of _____" and filed as directed by the Administrative Office of the Courts.

(h) No drivers license points or insurance surcharge shall be assessed for a revocation pursuant to this section. Possession of a drivers license revoked pursuant to this section shall not be a violation of G.S. 20-30.

(i) The Administrative Office of the Courts shall adopt forms to implement this section."

SECTION 4. Section 5 of S.L. 2011-236 reads as rewritten:

"**SECTION 5.** This act becomes effective October 1, 2011, and applies to agreements executed on or after that date. Agreements executed prior to October 1, 2011, remain subject to the laws in effect at the time the parties executed the ~~agreement~~-agreement; differences in wording between procedures authorized to establish agreements under the laws repealed by this act and under the superseding laws enacted by this act clarify the permitted procedures under the repealed laws."

SECTION 5.(a) G.S. 148-77 is repealed.

SECTION 5.(b) G.S. 143B-600(a) reads as rewritten:

"(a) There is established the Department of Public Safety. The head of the Department of Public Safety is the Secretary of Public Safety, who shall be known as the Secretary. The Department shall consist of six divisions and an Office of External Affairs as follows:

...

- (6) The Division of Administration, the head of which shall be a deputy secretary responsible for all administrative functions, including fiscal, auditing, information technology, purchasing, human resources, training, engineering, and facility management functions for the Department. Within the Division, there is established a Grants Management Section, which shall consist of the Governor's Crime Commission, the Criminal Justice Partnership Program, and the Juvenile Crime Prevention Council Fund. There is also established within the Division a Research and Planning Section responsible for statistics, research, and planning to facilitate regular improvement in the structure, administration, and programs of the Department of Public Safety. The Research and Planning Section may cooperate with and seek the cooperation of public and private agencies, institutions, officials, and individuals in the development and conduct of programs to compile and analyze statistics and to conduct research in criminology and correction. The Research and Planning Section shall be the single State agency responsible for the coordination and implementation of ex-offender reentry initiatives.

...."

SECTION 5.(c) During the 2012-2013 fiscal year, the Research and Planning Section of the Department of Public Safety shall work with local communities to form up to 10, but not less than three, local reentry councils to develop comprehensive local reentry plans, to document and maximize the use of existing services, and to supervise and coordinate innovative responses to the reintegration of ex-offenders at the local level. The Section shall also form a State-level advisory group with broad representation of involved State agency leadership, service providers, and program recipients.

SECTION 6. Section 11 of S.L. 2011-19, as amended by Section 9 of S.L. 2011-307, reads as rewritten:

"**SECTION 11.** Sections 1 through 5 and Sections 9 through 11 are effective when this act becomes law, and Section 6 becomes effective July 1, 2011. Sections 7 and 8 of this act are effective when they become law, however, until ~~October 1, 2012,~~ July 1, 2013, the provisions of those sections shall apply only to the North Carolina State Crime Laboratory, and on or after ~~October 1, 2012,~~ July 1, 2013, the provisions of Sections 7 and 8 shall apply to all laboratories conducting forensic or chemical analysis for admission in the courts of this State. Nothing in this act is intended to amend or modify either the statutory or common law applicable to discovery in criminal cases which was applicable prior to the effective date of this act.

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."

SECTION 6.1. Effective June 1, 2012, Section 4 of S.L. 2011-19, as amended by Section 8 of S.L. 2011-307 reads as rewritten:

"**SECTION 4.** ~~Forensic science professionals—Scientists I, II, and III, forensic science supervisors, and forensic scientist managers~~ at the State Crime Laboratory shall be required to obtain individual certification consistent with international and ISO standards within 18 months of the date the ~~analyst-scientist~~ becomes eligible to seek certification according to the standards of the certifying entity ~~or by June 1, 2012, whichever occurs later, or by January 1, 2013, or as soon as practicable after that date unless no certification is available.~~ All such forensic ~~science professionals—scientists~~ shall have access to the certification process."

SECTION 7. Section 1 of this act becomes effective September 1, 2012, and applies to offenses committed on or after that date. Section 2 of this act becomes effective December 1, 2012, and applies to motions for appropriate relief pending, and for which no answer has been filed, or filed on or after that date. Section 3 of this act becomes effective October 1, 2012, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

Became law upon approval of the Governor at 4:36 p.m. on the 12th day of July, 2012.

Session Law 2012-169

H.B. 572

AN ACT TO PROVIDE GREATER ACCOUNTABILITY FOR NONPROFIT ENTITIES THAT RECEIVE PUBLIC FUNDING.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 16 of Chapter 55A of the General Statutes is amended by adding a new section to read:

"§ 55A-16-24. Financial statements for the public.

(a) Notwithstanding any provisions in the articles of incorporation or bylaws, a corporation that receives over five thousand dollars (\$5,000) of public funding within a fiscal year, including the amount of grants or loans and the value of any in-kind donations, from a local government, the State, or the federal government shall provide its latest annual financial statements upon written demand from any member of the public. The statements shall be substantively similar to those required under G.S. 55A-16-20 but shall contain additional details about the amount of public funds received and how those funds were used. Additionally, a corporation that receives public funding shall provide, upon written demand from any member of the public, a copy of its most recently completed and filed Internal Revenue Service Form 990 or Form 990-EZ, except of any information not required for public disclosure pursuant to 26 U.S.C. § 6104(d)(3), or a copy of the message confirming the corporation's submission of Internal Revenue Service Form 990-N. A corporation may comply with the provisions of this section by maintaining on its public Web site a financial report as described in this section and a copy of its most recent Internal Revenue Service Form 990, Form 990-EZ, or Form 990-N submission confirmation or by having such materials posted, as part of a database of similar documents of other tax-exempt organization, on a Web site established and maintained by another entity, provided that the entity does not charge a fee to access the information and provided that the corporation provides a link on its public Web site to the Web site maintained by the other entity.

(b) Exceptions. – The following corporations already required to report information shall not be subject to subsection (a) of this section, but shall provide information on their public Web site to whom the corporation reports its information and how to access that information:

- (1) A corporation required to report to the North Carolina Medical Care Commission of the Department of Health and Human Services.
- (2) A corporation required to report to the Local Government Commission of the Department of State Treasurer.
- (3) A private college that meets the definition of "institution" under G.S. 116-22 and is required to report to the State under G.S. 143C-6-23."

SECTION 2. This act becomes effective October 1, 2012, and applies to nonprofit corporations receiving public funding in the form of grants or loans on or after that date.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

Became law upon approval of the Governor at 4:38 p.m. on the 12th day of July, 2012.

Session Law 2012-170

H.B. 1173

AN ACT TO PROVIDE THAT A PROBATION VIOLATOR WHO ABSCONDS OR OTHERWISE WILLFULLY AVOIDS ARREST AFTER THE ISSUANCE OF A WARRANT SHALL FORFEIT ANY PUBLIC ASSISTANCE BENEFITS UNTIL SURRENDERING TO THE COURT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1345 is amended by adding a new subsection to read:

"(a1) Suspension of Public Assistance Benefits for Probation Violators Who Avoid Arrest. – The court may order the suspension of any public assistance benefits that are being received by a probationer for whom the court has issued an order for arrest for violation of the conditions of probation but who is absconding or otherwise willfully avoiding arrest. The suspension of benefits shall continue until such time as the probationer surrenders to or is otherwise brought under the jurisdiction of the court. For purposes of this section, the term "public assistance benefits" includes unemployment benefits, Medicaid or other medical assistance benefits, Work First Family Assistance, food and nutrition benefits, any other programs of public assistance under Article 2 of Chapter 108A of the General Statutes, and any other financial assistance of any kind being paid to the probationer from State or federal funds. Nothing in this subsection shall be construed to suspend, or in any way affect the eligibility for, any public assistance benefits that are being received by or for the benefit of a family member of a probation violator."

SECTION 2. The Division of Social Services and the Division of Medical Assistance of the Department of Health and Human Services and the Division of Employment Security of the Department of Commerce shall adopt rules for the provision of assistance by those divisions to local law enforcement in the enforcement of this act.

SECTION 3. Section 1 of this act becomes effective October 1, 2012. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

Became law upon approval of the Governor at 4:39 p.m. on the 12th day of July, 2012.

Session Law 2012-171

S.B. 525

AN ACT RELATING TO CRITICAL ACCESS BEHAVIORAL HEALTH AGENCIES.

The General Assembly of North Carolina enacts:

SECTION 1. Qualified provider. – The Department of Health and Human Services (Department) shall ensure that Critical Access Behavioral Health Agencies (CABHAs) are the only providers of the following Medicaid services: (i) Community Support Team; (ii) Intensive In-Home; and (iii) Child and Adolescent Day Treatment. CABHAs shall provide these services in accordance with all of the following:

- (1) State statutory requirements regulating the provision of mental health and substance abuse services in Chapter 122C of the General Statutes.
- (2) Chapters 21 through 25 and Chapter 27 of Title 10A of the North Carolina Administrative Code.
- (3) Clinical policy requirements specified in Medicaid Clinical Coverage Policy, Section 8, and in the 1915(b) MH/DD/SAS Health Plan Waiver.
- (4) Federal Medicaid policy as outlined in 42 C.F.R. Chapter IV, Subchapter C.

SECTION 2. Required services. – Each CABHA shall, at a minimum, provide comprehensive clinical assessment, medication management, outpatient therapy, and at least two of the following listed services within an age and disability-specific continuum:

- (1) Intensive In-Home.
- (2) Community Support Team.
- (3) Child and Adolescent Day Treatment.
- (4) Substance Abuse Intensive Outpatient Program.
- (5) Substance Abuse Comprehensive Outpatient Treatment.
- (6) Child and Adolescent Residential Treatment Level II – Family and Program Type, Level III, or Level IV (provision of multiple residential service levels counts as one service).
- (7) Psychosocial Rehabilitation.
- (8) Assertive Community Treatment Team.
- (9) Multi-Systemic Therapy.
- (10) Partial Hospitalization.
- (11) Substance Abuse Medically Monitored Community Residential Treatment.
- (12) Substance Abuse Non-Medical Community Residential Treatment.
- (13) Outpatient Opioid Treatment.
- (14) Any other mental health or substance abuse service required to be delivered by a CABHA as set forth in the North Carolina State Plan of Medical Assistance as approved by the Centers for Medicare and Medicaid Services (CMS) or in a waiver approved by CMS pursuant to 42 U.S.C. § 1915(b).

SECTION 3. Staffing. – In accordance with the North Carolina State Plan of Medical Assistance, the Department shall ensure each CABHA meet the following staffing requirements:

- (1) A medical director who is a medical doctor licensed in North Carolina, enrolled as a provider, and in good standing with the Division of Medical Assistance. The medical director shall provide medical, clinical, and quality management oversight of the agency's CABHA services described in Section 2 of this act.
- (2) A clinical director who shall be one of the following licensed or certified providers:
 - a. Licensed medical doctor.
 - b. Licensed psychologist.
 - c. Licensed clinical social worker.
 - d. Licensed psychological associate.

- e. Licensed professional counselor.
 - f. Licensed marriage and family therapist.
 - g. Licensed nurse practitioner.
 - h. Licensed clinical addiction specialist.
 - i. Certified clinical supervisor.
- (3) A quality management/training director who shall have any training or experience in quality management or training.

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, 2012.

Became law upon approval of the Governor at 4:41 p.m. on the 12th day of July, 2012.

Session Law 2012-172

H.B. 853

AN ACT TO AMEND LOCAL INTAKE PROCEDURES FOR RECEIVING DELINQUENCY AND UNDISCIPLINED COMPLAINTS UNDER THE LAWS PERTAINING TO UNDISCIPLINED AND DELINQUENT JUVENILES, TO AUTHORIZE MONITORING OF COUNTY DETENTION CENTERS BY THE DEPARTMENT OF PUBLIC SAFETY, TO AMEND LAWS ON STATE STANDARDS FOR JUVENILE DETENTION AND LOCAL JAILS, TO CORRECT REFERENCES TO THE AGENCY RESPONSIBLE FOR JUVENILE DETENTION, AND TO PROVIDE PROCEDURES FOR REVIEW OF JUVENILES ON PROTECTIVE SUPERVISION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-1803(a) reads as rewritten:

"(a) All complaints concerning a juvenile alleged to be delinquent or undisciplined shall be referred to the juvenile court counselor for screening and evaluation. Thereafter, if the juvenile court counselor determines that a petition should be filed, the petition shall be drawn by the juvenile court counselor or the clerk, signed by the complainant, and verified before an official authorized to administer oaths. If the circumstances indicate a need for immediate attachment of jurisdiction and if the juvenile court counselor is out of the county or otherwise unavailable to receive a complaint and to draw a petition when it is needed, the clerk shall assist the complainant in communicating the complaint to the juvenile court counselor by telephone and, with the approval of the juvenile court counselor, shall draw a petition and file it when signed and verified. A copy of the complaint and petition shall be transmitted to the juvenile court counselor. ~~Procedures for receiving delinquency and undisciplined complaints and drawing petitions thereon, consistent with this Article and Article 17 of this Chapter, shall be established by administrative order of the chief judge in each judicial district.~~"

SECTION 2. G.S. 153A-221.1 reads as rewritten:

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

The legal responsibility of the ~~Secretary of Health and Human Services and the Social Services Commission~~ Chief Deputy Secretary of Juvenile Justice of the Department of Public Safety for State services to county juvenile detention homes under this Article is hereby confirmed and shall include the following: development of State standards under the prescribed procedures; inspection; consultation; technical assistance; and training.

The Secretary of Health and Human ~~Services~~ Services, in consultation with the Chief Deputy Secretary of Juvenile Justice of the Department of Public Safety, shall also develop standards under which a local jail may be approved as a holdover facility for not more than five calendar days pending placement in a juvenile detention home which meets State standards, providing the local jail is so arranged that any child placed in the holdover facility cannot converse with, see, or be seen by the adult population of the jail while in the holdover facility. The personnel responsible for the administration of a jail with an approved holdover facility

shall provide close supervision of any child placed in the holdover facility for the protection of the child."

SECTION 3. G.S. 7B-1903(b)(7) and (8) read as rewritten:

- "(7) The juvenile is alleged to be undisciplined by virtue of the juvenile's being a runaway and is inappropriate for nonsecure custody placement or refuses nonsecure custody, and the court finds that the juvenile needs secure custody for up to 24 hours, excluding Saturdays, Sundays, and State holidays, ~~or where circumstances require, for a period not to exceed 72 hours~~ to evaluate the juvenile's need for medical or psychiatric treatment or to facilitate reunion with the juvenile's parents, guardian, or custodian.
- (8) The juvenile is alleged to be undisciplined and has willfully failed to appear in court after proper notice; the juvenile shall be brought to court as soon as possible and in no event should be held more than 24 hours, excluding Saturdays, Sundays, and State holidays ~~or where circumstances require for a period not to exceed 72 hours.~~ holidays."

SECTION 4. G.S. 7B-1905(b) reads as rewritten:

"(b) Pursuant to G.S. 7B-1903(b), (c), or (d), a juvenile may be temporarily detained in an approved detention facility which shall be separate from any jail, lockup, prison, or other adult penal institution, except as provided in subsection (c) of this section. It shall be unlawful for a county or any unit of government to operate a juvenile detention facility unless the facility meets the standards and rules adopted by the Department of ~~Health and Human Services.~~ Public Safety."

SECTION 5. G.S. 7B-2505 reads as rewritten:

"§ ~~7B-2505. Contempt of court for undisciplined juveniles.~~ Violation of protective supervision by undisciplined juvenile.

~~Upon motion of the juvenile court counselor or on the court's own motion, the court may issue an order directing a juvenile who has been adjudicated undisciplined to appear and show cause why the juvenile should not be held in contempt for willfully failing to comply with an order of the court. The first time the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed 24 hours. The second time the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed three days. The third time and all subsequent times the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed five days. The timing of any confinement under this section shall be determined by the court in its discretion. In no event shall a juvenile held in contempt pursuant to this section be confined for more than 14 days in one 12-month period.~~

(a) On motion of the juvenile court counselor or the juvenile, or on the court's own motion, the court may review the progress of any juvenile on protective supervision at any time during the period of protective supervision. When the motion is filed during the period of protective supervision and either alleges a violation of protective supervision or seeks an extension of protective supervision as permitted by G.S. 7B-2503(2), the court's review may occur within a reasonable time after the period of protective supervision ends, and the court shall have jurisdiction to enter an order under this section. The conditions or duration of protective supervision may be modified only as provided in this Subchapter and only after notice and a hearing.

(b) If the court, after notice and a hearing, finds by the greater weight of the evidence that the juvenile has violated the conditions of protective supervision set by the court, the court may do one or more of the following:

- (1) Continue or modify the conditions of protective supervision.
- (2) Order any disposition authorized by G.S. 7B-2503.
- (3) Notwithstanding the time limitation in G.S. 7B-2503(2), extend the period of protective supervision for up to three months."

SECTION 6. Sections 3 and 5 of this act become effective October 1, 2012. Section 4 of this act becomes effective January 1, 2013, and the remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 4:43 p.m. on the 12th day of July, 2012.

Session Law 2012-173

H.B. 1085

AN ACT TO, FOR THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES, WHICH COVERS RETIREES WITHIN THE RETIREMENT SYSTEM, (1) AMEND THE DEFINITION OF "DEPENDENT CHILD" IN ORDER TO COMPLY WITH THE AFFORDABLE CARE ACT, (2) LIMIT ENROLLMENT WITHOUT A QUALIFYING EVENT TO THE ANNUAL ENROLLMENT PERIOD, (3) REPEAL THE OPTIONAL PROGRAM OF LONG-TERM CARE BENEFITS, AND (4) MAKE A CLARIFYING CHANGE RELATED TO COINSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-48.1(9) reads as rewritten:

"(9) Dependent child. – Subject to the eligibility requirements of subsections (a) and (b) of G.S. 135-48.41, any of the following up to the first month following the dependent child's 26th birthday:

- a. A natural or legally adopted child or children of the employee, whether or not the child is living with the employee.
- b. A foster child or children of the employee, whether or not the child is living with the ~~employee, as long as the employee is legally responsible for the child's maintenance and support.~~employee.
- c. A child for which an employee is a court-appointed guardian, as long as the employee is legally responsible for the child's maintenance and support.~~guardian.~~
- d. A stepchild of a member who is married to the stepchild's natural parent.
- e. Repealed by Session Laws 2011-96, s. 3(a), effective July 1, 2011."

SECTION 2.(a) G.S. 135-48.41(g) reads as rewritten:

"(g) 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, during an annual enrollment period, but ~~will~~members 19 years of age and older may 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."

SECTION 2.(b) G.S. 135-48.42 reads as rewritten:

"§ 135-48.42. 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 partially contributory 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 age 19 and older not enrolling themselves and their dependents age 19 and older within 30 days, or not adding dependents when first eligible as provided herein may enroll ~~on the first day of any month~~during annual enrollment, but ~~will~~may 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 State Treasurer 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. 135-48.43(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) Except as otherwise required by applicable federal law, newly acquired dependents (spouse/child) age 19 and older 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~~ first eligible due to marriage, adoption, legal guardianship, entering a foster child relationship, 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.

(c) Eligible employees younger than age 19 and dependents younger than age 19 may be enrolled ~~at any time~~ during annual enrollment and shall not be subject to any waiting period for a preexisting condition.

(d) When an eligible or enrolled member applies to enroll the member's eligible dependent child or spouse, the member shall provide the documentation required by the Plan to verify the dependent's eligibility for coverage.

(e) Eligible employees may only change their elections, including adding or removing dependents, during the Plan year due to a qualifying event as defined under federal law."

SECTION 2.(c) G.S. 135-48.43 reads as rewritten:

"§ 135-48.43. **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 age 19 or older not enrolling or adding dependents age 19 and older when first eligible in accordance with G.S. 135-48.42 may enroll later ~~on the first of any following month~~ during annual enrollment, but ~~will~~ may 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 State Treasurer for optional alternative plans offered under the Plan.
- ...
- (b) Waiting Periods and Preexisting Conditions. –
- (1) New employees and dependents age 19 and older enrolling when first eligible are subject to no waiting period for preexisting conditions under the Plan.
 - (2) Employees age 19 or older not enrolling or not adding dependents age 19 and older when first eligible may enroll later ~~on the first of any following month~~, during annual enrollment, but ~~will~~ enrollees age 19 or older may be

subject to a twelve-month waiting period for preexisting conditions except as provided in subdivision (a)(3) of this section. The waiting period under this subdivision is subject to applicable federal law.

...
(c) Dependents of Employees and Retired Employees. –

...
(5) Employees not adding dependents age 19 and older when first eligible may enroll later ~~on the first of any following month, during annual enrollment,~~ but dependents ~~will~~may be subject to a 12-month waiting period for preexisting health conditions except as provided in subdivision (a)(3) of this section.

...."

SECTION 3.(a) The title of Article 3B of Chapter 135 of the General Statutes reads as rewritten:

"Article 3B.

State Health Plan for Teachers and State ~~Employees; Long-term Care Benefits.~~Employees."

SECTION 3.(b) G.S. 135-48.5(c) is repealed.

SECTION 3.(c) Subdivisions (15) and (16) of G.S. 135-48.30 are repealed.

SECTION 3.(d) Part 6 of Article 3B of Chapter 135 of the General Statutes is repealed.

SECTION 3.(e) An employee, retired employee, or dependent enrolled under long-term care under Part 6 of Article 3B of Chapter 136 of the General Statutes at the time of that Part's repeal shall be entitled to a conversion to a nongroup plan of long-term care benefits. The Executive Administrator and Board of Trustees of the Plan shall determine how those conversion rights shall be administered.

SECTION 3.(f) Any unencumbered administrative fees collected by the Plan under Part 6 of Article 3B of Chapter 135 of the General Statutes are transferred to the Public Employee Health Benefit Fund created under G.S. 135-48.5(a).

SECTION 4.(a) G.S. 135-48.22(2) reads as rewritten:

"(2) Approve premium rates, co-pays, deductibles, and coinsurance percentages and maximums for the Plan, as provided in G.S. 135-48.30(a)(2)."

SECTION 4.(b) G.S. 135-48.30(2) reads as rewritten:

"(2) Set benefits, premium rates, co-pays, deductibles, and coinsurance percentages and maximums, subject to approval by the Board of Trustees. In setting premium rates, the State Treasurer may set a partially contributory rate of zero dollars, subject to approval by the Board of Trustees."

SECTION 5. G.S. 135-48.3 reads as rewritten:

"§ 135-48.3. **Right to amend.**

The General Assembly reserves the right to alter, amend, or repeal ~~Parts 2 and 3~~ of this Article."

SECTION 6. This act becomes effective July 1, 2012, except that Sections 3(a), 3(b), 3(c), 3(d), and 3(f) become effective January 1, 2013.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 4:45 p.m. on the 12th day of July, 2012.

Session Law 2012-174

H.B. 1073

AN ACT TO MODIFY THE COMPOSITION AND APPOINTMENT PROCESS FOR MEMBERS OF THE BOARD OF DIRECTORS OF THE UNIVERSITY OF NORTH CAROLINA HEALTH CARE SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-37(b) reads as rewritten:

"(b) Board of Directors. – ~~There is hereby established a~~ The board of directors of the University of North Carolina Health Care System, effective November 1, 1998. System is hereby restructured effective November 1, 2012.

(1) The board of directors shall be composed of 24 members as follows:

- a. ~~A minimum of six~~ Eight members ex officio of said board shall be the President of The University of North Carolina (or the President's designee); the Chief Executive Officer of the University of North Carolina Health Care System; the Chancellor of the University of North Carolina at Chapel Hill and one additional administrative officer of the University of North Carolina at Chapel Hill designated by the Chancellor; the President of the University of North Carolina Hospitals; the President of the UNC Faculty Physicians; and two members of the faculty of the School of Medicine of the University of North Carolina at Chapel Hill designated by the Dean of the School of Medicine; provided, that if not such a member ex officio by virtue of holding one or more of the offices aforementioned, additional ex officio memberships shall be held by the President of the University of North Carolina Hospitals at Chapel Hill, the faculty member responsible for leading the clinical patient care programs of the School of Medicine, and Medicine. If the Dean of the School of Medicine of the University of North Carolina at Chapel Hill. Hill does not also hold one of the positions designated as an ex officio member of the board, the Dean shall serve in one of the positions reserved for a member of the faculty.
- b. ~~No less than nine and no more than 21~~ Sixteen members at large, ~~which number shall be determined by the board of directors, large~~ shall be appointed for four-year terms, commencing on November 1 of the year of appointment; ~~provided, that the initial appointment. Twelve of the members at large shall be appointed by the Board of Governors after consultation with the President of The University of North Carolina. Four of the members at large shall be appointed by the board of directors.~~
- c. The initial class of at-large members shall include be composed of the following individuals:
 1. ~~the~~ The persons who hold the appointed memberships on the board of directors of the University of North Carolina Hospitals at Chapel Hill incumbent as of October 31, 1998, directors as of October 31, 2012, and whose terms do not expire on that date. The with their terms of membership on the board of directors of the University of North Carolina Health Care System to for these at-large members will expire on the last day of October of the year in which their term as a member of the board of directors of the University of North Carolina Hospitals at Chapel Hill would have expired.

2. Three persons appointed by the Board of Governors after consultation with the President of The University of North Carolina whose terms will commence on November 1, 2012, and will expire on October 31, 2016.
3. One person appointed by the board of directors whose term will commence on November 1, 2012, and will expire on October 31, 2016.

The Board of Governors shall appoint successor at-large members for those members whose terms end on October 31, 2013, October 31, 2014, and four of the five members whose terms end on October 31, 2016. The board of directors shall appoint successor at-large members for those members whose terms end on October 31, 2015, and one of the five members whose terms end on October 31, 2016.

- d. All ~~Vacant~~ at-large positions shall be filled by the appointment of persons from the business and professional public at large who have special competence in business management, hospital administration, health care delivery, or medical practice or who otherwise have demonstrated dedication to the improvement of health care in North Carolina, and who are neither members of the Board of Governors, members of the board of trustees of a constituent institution of The University of North Carolina, nor officers or employees of the State. ~~Members shall be appointed by the President of the University, and ratified by the Board of Governors, from among a slate of nominations made by the board of directors of the University of North Carolina Health Care System. No member may be appointed to more than two full four-year terms in succession; provided, that persons holding appointed memberships on November 1, 1998, by virtue of their previous membership on the board of directors of the University of North Carolina Hospitals at Chapel Hill, shall not be eligible, for a period of one year following expiration of their term, to be reappointed to the board of directors of the University of North Carolina Health Care System.~~ succession, including members serving as of June 30, 2012. Any vacancy in an unexpired term shall be filled by an appointment made by the President, and ratified by the Board of Governors, upon the nomination of the board of directors, shall be filled by the appointing authority for the balance of the term remaining.
- (2) The board of directors, with each ex officio and at-large member having a vote, shall elect a chairman only from among the at-large members, for a term of two years. Notwithstanding the foregoing limitation, the Chancellor of the University of North Carolina at Chapel Hill may serve as Chairman. No person shall be eligible to serve as chairman for more than three terms in succession.
- (3) The board of directors of the University of North Carolina Health Care System shall meet at least every 60 days and may hold special meetings at any time and place within the State at the call of the chairman. Board members, other than ex officio members, shall receive the same per diem and reimbursement for travel expenses as members of the State boards and commissions generally.
- (4) In meeting the patient-care, educational, research, and public-service goals of the University of North Carolina Health Care System, the board of directors is authorized to exercise such authority and responsibility and

adopt such policies, rules, and regulations as it deems necessary and appropriate, not inconsistent with the provisions of this section or the policies of the Board of Governors or, to the extent the board's actions affect employees of the University of North Carolina at Chapel Hill, the policies of the University of North Carolina at Chapel Hill. The board may authorize any component of the University of North Carolina Health Care System, including the University of North Carolina Hospitals at Chapel Hill, to contract in its individual capacity, subject to such policies and procedures as the board of directors may direct. The board of directors may enter into formal agreements with the University of North Carolina at Chapel Hill with respect to the provision of clinical experience for students and for the provision of maintenance and supporting services. The board's action on matters within its jurisdiction is final, except that appeals may be made, in writing, to the Board of Governors with a copy of the appeal to the Chancellor of the University of North Carolina at Chapel Hill. The board of directors shall keep the Board of Governors and the board of trustees of the University of North Carolina at Chapel Hill fully informed about health care policy and recommend changes necessary to maintain adequate health care delivery, education, and research for improvement of the health of the citizens of North Carolina."

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

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 4:47 p.m. on the 12th day of July, 2012.

Session Law 2012-175

H.B. 1052

AN ACT TO MAKE VARIOUS AMENDMENTS TO NORTH CAROLINA'S MECHANICS LIEN AND PAYMENT BOND LAWS, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S MECHANICS LIENS ON REAL PROPERTY COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-7 reads as rewritten:

"§ 44A-7. **Definitions.**

Unless the context otherwise ~~requires in this Article~~requires, the following definitions apply in this Article:

- (1) Contractor. – A person who contracts with an owner to improve real property.
- (2) First tier subcontractor. – A person who contracts with a contractor to improve real property.
- ~~(1)~~(3) "Improve" means to Improve. – To build, effect, alter, repair, or demolish any improvement upon, connected with, or on or beneath the surface of any real property, or to excavate, clear, grade, fill or landscape any real property, or to construct driveways and private roadways, or to furnish materials, including trees and shrubbery, for any of such purposes, or to perform any labor upon such improvements, and shall also mean and include any design or other professional or skilled services furnished by architects, engineers, land surveyors and landscape architects registered under Chapter 83A, 89A or 89C of the General Statutes, and rental of equipment directly utilized on the real property in making the improvement.

- (2)(4) "Improvement" means all Improvement. – All or any part of any building, structure, erection, alteration, demolition, excavation, clearing, grading, filling, or landscaping, including trees and shrubbery, driveways, and private roadways, on real property.
- (5) Obligor. – An owner, contractor, or subcontractor in any tier who owes money to another as a result of the other's partial or total performance of a contract to improve real property.
- (3)(6) An "owner" is a Owner. – A person who has an interest in the real property improved and for whom an improvement is made and who ordered the improvement to be made. "Owner" includes successors in interest of the owner and agents of the owner acting within their authority.
- (4)(7) "Real property" means the Real property. – The real estate that is improved, including lands, leaseholds, tenements and hereditaments, and improvements placed thereon.
- (8) Second tier subcontractor. – A person who contracts with a first tier subcontractor to improve real property.
- (9) Third tier subcontractor. – A person who contracts with a second tier subcontractor to improve real property."

SECTION 2. G.S. 44A-11 reads as rewritten:

"§ 44A-11. Perfecting claim of lien on real property.

(a) Perfection. – A claim of lien on real property granted by this Article shall be perfected as of the time provided in G.S. 44A-10 upon the filing of the claim of lien on real property under G.S. 44A-12 and may be enforced pursuant to G.S. 44A-13, occurrence of all of the following:

- (1) Service of a copy of the claim of lien on real property upon the record owner of the real property claimed to be subject to the claim of lien and, if the claim of lien on real property is being asserted pursuant to G.S. 44A-23, also upon the contractor through which subrogation is being asserted.
- (2) Filing of the claim of lien on real property under G.S. 44A-12.

(b) Method of Service. – Service of the claim of lien on real property pursuant to subsection (a) of this section shall not require proof of actual receipt by the listed recipient and shall be complete upon the occurrence of any of the following:

- (1) Personal delivery of a copy of the claim of lien on real property upon the recipient.
- (2) Deposit of a copy of the claim of lien on real property in a postpaid, properly addressed wrapper in either of the following:
 - a. A post office or official depository under the exclusive care and custody of the United States Postal Service.
 - b. An authorized depository under the exclusive care and custody of a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2).

(c) Service Address. – For purposes of this section, a wrapper addressed to a party required to be served under subdivision (1) of subsection (a) of this section shall be conclusively deemed properly addressed if it uses any of the following addresses:

- (1) The address for the party to be served listed on the permit issued for the improvement.
- (2) The address for the party to be served listed with the tax rolls for any county in North Carolina.
- (3) The address of the registered agent for the party to be served listed with the North Carolina Secretary of State's office."

SECTION 3. G.S. 44A-12(c) reads as rewritten:

"§ 44A-12. Filing claim of lien on real property.

...
 (c) Contents of Claim of Lien on Real Property to Be Filed. – All claims of lien on real property must be filed using a form substantially as follows:

CLAIM OF LIEN ON REAL PROPERTY

- (1) Name and address of the person claiming the claim of lien on real property:
- (2) Name and address of the record owner of the real property claimed to be subject to the claim of lien on real property at the time the claim of lien on real property is ~~filed~~ filed and, if the claim of lien on real property is being asserted pursuant to G.S. 44A-23, the name of the contractor through which subrogation is being asserted:
- (3) Description of the real property upon which the claim of lien on real property is claimed: (Street address, tax lot and block number, reference to recorded instrument, or any other description of real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.)
- (4) Name and address of the person with whom the claimant contracted for the furnishing of labor or materials:
- (5) Date upon which labor or materials were first furnished upon said property by the claimant:
- (5a) Date upon which labor or materials were last furnished upon said property by the claimant:
- (6) General description of the labor performed or materials furnished and the amount claimed therefor:

I hereby certify that I have served the parties listed in (2) above in accordance with the requirements of G.S. 44A-11.

 Lien Claimant

Filed this ____ day of ____, ____

 Clerk of Superior Court

A general description of the labor performed or materials furnished is sufficient. It is not necessary for lien claimant to file an itemized list of materials or a detailed statement of labor performed."

SECTION 4. G.S. 44A-13 is amended by adding new subsections to read:

"§ 44A-13. Action to enforce claim of lien on real property.

...
 (d) Former Owner Not a Necessary Party to Action. – In an action brought under this section, a former owner of the improved property at the time the lien arose, who holds no ownership interest in the property at the time the action is commenced and against whom the plaintiff seeks no relief, is not a necessary party to the action.

(e) Subsequent Purchaser and Lender Not Necessary or Proper Parties to Action Filed After Claim of Lien Is Discharged. – If a claim of lien on real property filed under this Article is discharged pursuant to G.S. 44A-16(a)(5) or G.S. 44A-16(a)(6) prior to the filing of an action to enforce the claim of lien under this section, then neither a subsequent purchaser of the real property upon which the lien is claimed nor the subsequent purchaser's lender shall be a necessary or proper party to the action. However, nothing herein precludes the lien claimant from asserting any claims against any party that are separate and distinct from enforcement of the lien.

(f) Subsequent Purchaser and Lender No Longer Necessary or Proper Parties Upon Discharge of Claim of Lien After Action Is Filed. – If an action to enforce a lien under this section is commenced before the claim of lien is discharged pursuant to G.S. 44A-16(a)(5) or

G.S. 44A-16(a)(6), a subsequent purchaser of the real property upon which the lien is claimed and the subsequent purchaser's lender shall cease to be a necessary or proper party to the action, and any claim for lien enforcement asserted against the subsequent purchaser of the real property upon which the lien is claimed or the subsequent purchaser's lender shall be dismissed upon motion of any party upon a showing that the claim of lien was discharged pursuant to G.S. 44A-16. However, nothing herein precludes the lien claimant from continuing to pursue any claims against any party that are separate and distinct from enforcement of the lien.

(g) Bonds Prohibited From Requiring Subsequent Purchaser or Lender to Remain Parties to Action After Discharge of Claim of Lien. – The fact that a subsequent purchaser of the real property upon which the lien is claimed or the subsequent purchaser's lender is not a party to an action to enforce a claim of lien on real property subsequent to discharge of that claim of lien by the contractor under G.S. 44A-16 shall not invalidate the claim of lien under this Chapter, nor shall it invalidate any bond filed under G.S. 44A-16 to discharge the claim of lien. Further, a bond filed under G.S. 44A-16(a)(6) shall not require that a subsequent purchaser of the real property upon which the lien is claimed or the subsequent purchaser's lender remain a party to an action to enforce a claim of lien after the claim of lien has been discharged pursuant to G.S. 44A-16.

(h) Definition of "Subsequent Purchaser." – For purposes of this section, a "subsequent purchaser" means a party whose record interest is protected under G.S. 47-18, including any beneficiary of a deed of trust or mortgagee of that party, the priority of whose interest is protected under the provisions of G.S. 47-20, and who was not the owner of the real property at the time of the improvements giving rise to the lien claim as defined in G.S. 44A-7(6)."

SECTION 5. G.S. 44A-17 is repealed.

SECTION 6. G.S. 44A-18 reads as rewritten:

"§ 44A-18. Grant of lien upon funds; subrogation; perfection.

~~Upon compliance with this Article:~~

~~(1)(a)~~ A first tier subcontractor who furnished labor, materials, or rental equipment at the site of the improvement shall ~~be entitled to have~~ a lien upon funds that are owed to the contractor with whom the first tier subcontractor dealt and that arise out of the improvement on which the first tier subcontractor worked or furnished materials.

~~(2)(b)~~ A second tier subcontractor who furnished labor, materials, or rental equipment at the site of the improvement shall ~~be entitled to have~~ a lien upon funds that are owed to the first tier subcontractor with whom the second tier subcontractor dealt and that arise out of the improvement on which the second tier subcontractor worked or furnished materials. A second tier subcontractor, to the extent of the second tier subcontractor's lien provided in this subdivision, shall also be ~~entitled to be~~ subrogated to the lien upon funds of the first tier subcontractor with whom the second tier contractor dealt provided for in subdivision (1) of this section and shall ~~be entitled to~~ perfect it by service of the notice of claim of lien upon funds to the extent of the claim.

~~(3)(c)~~ A third tier subcontractor who furnished labor, materials, or rental equipment at the site of the improvement shall ~~be entitled to have~~ a lien upon funds that are owed to the second tier subcontractor with whom the third tier subcontractor dealt and that arise out of the improvement on which the third tier subcontractor worked or furnished materials. A third tier subcontractor, to the extent of the third tier subcontractor's lien upon funds provided in this subdivision, shall also ~~be entitled to be~~ subrogated to the lien upon funds of the second tier subcontractor with whom the third tier contractor dealt and to the lien upon funds of the first tier subcontractor with whom the second tier subcontractor dealt to the extent that the second tier subcontractor is ~~entitled to be~~ subrogated thereto, and in either case shall ~~be entitled to~~ perfect ~~the same~~ it by service of the notice of claim of lien upon funds to the extent of the claim.

~~(4)(d)~~ Subcontractors more remote than the third tier who furnished labor, materials, or rental equipment at the site of the improvement shall ~~be entitled to have~~ a lien upon funds that are owed to the person with whom they dealt and that arise out of the improvement on which

they furnished labor, materials, or rental equipment, but such remote tier subcontractor shall not be entitled to subrogation to the rights of other persons.

(5)(e) The liens upon funds granted under this section shall secure amounts earned by the lien claimant as a result of having furnished labor, materials, or rental equipment at the site of the improvement under the contract to improve real property, including interest at the legal rate provided in G.S. 24-5, whether or not such amounts are due and whether or not performance or delivery is complete. In the event insufficient funds are retained to satisfy all lien claimants, subcontractor lien claimants may recover the interest due under this subdivision on a pro rata basis, but in no event shall interest due under this subdivision increase the liability of the obligor under G.S. 44A-20.

(6)(f) A lien upon funds granted under this section arises, attaches, and is perfected~~effective immediately upon the first furnishing of labor, materials, or rental equipment at the site of the improvement by a subcontractor. Any lien upon funds granted under this section is perfected upon the giving of notice of claim of lien upon funds in writing to the obligor as provided in G.S. 44A-19 and shall be effective upon the obligor's receipt of the notice. The subrogation rights of a first, second, or third tier subcontractor to the claim of lien on real property of the contractor created by Part 1 of Article 2 of this Chapter are perfected as provided in G.S. 44A-23. G.S. 44A-19.~~

(g) Until a lien claimant gives notice of a claim of lien upon funds in writing to the obligor as provided in G.S. 44A-19, any owner, contractor, or subcontractor against whose interest the lien upon funds is claimed may make, receive, use, or collect payments thereon and may use such proceeds in the ordinary course of its business."

SECTION 7. G.S. 44A-19 reads as rewritten:

"§ 44A-19. Notice of claim of lien upon funds.

- (a) Notice of a claim of lien upon funds shall set forth all of the following information:
 - (1) The name and address of the person claiming the lien upon funds.
 - (2) A general description of the real property improved.
 - (3) The name and address of the person with whom the lien claimant contracted to improve real property.
 - (4) The name and address of each person against or through whom subrogation rights are claimed.
 - (5) A general description of the contract and the person against whose interest the lien upon funds is claimed.
 - (6) The amount of the lien upon funds claimed by the lien claimant under the contract.

(b) All notices of claims of liens upon funds by first, second, or third tier subcontractors must be given using a form substantially as follows:

**NOTICE OF CLAIM OF LIEN UPON FUNDS BY FIRST, SECOND, OR THIRD TIER
SUBCONTRACTOR**

To:

- 1. _____, owner of property involved.
(Name and address)
- 2. _____, ~~general~~ contractor.
(Name and address)
- 3. _____, first tier subcontractor against or through
(Name and address) whom subrogation is claimed, if any.
- 4. _____, second tier subcontractor against or through
(Name and address) whom subrogation is claimed, if any.

General description of real property ~~whereon which~~ labor performed or material furnished:

General description of undersigned lien claimant's contract including the names of the parties thereto:

The amount of lien upon funds claimed pursuant to the above described contract:

\$ _____

The undersigned lien claimant gives this notice of claim of lien upon funds pursuant to North Carolina law and claims all rights of subrogation to which he is entitled under Part 2 of Article 2 of Chapter 44A of the General Statutes of North Carolina.

Dated _____

_____, Lien Claimant

(Address)

(c) All notices of claims of liens upon funds by subcontractors more remote than the third tier must be given using a form substantially as follows:

NOTICE OF CLAIM OF LIEN UPON FUNDS BY SUBCONTRACTOR MORE REMOTE THAN THE THIRD TIER

To:

_____, person holding funds against which lien upon funds is claimed.

(Name and Address)

General description of real property ~~whereon~~ which labor performed or material furnished: _____

General description of undersigned lien claimant's contract including the names of the parties thereto:

The amount of lien upon funds claimed pursuant to the above described contract:

\$ _____

The undersigned lien claimant gives this notice of claim of lien upon funds pursuant to North Carolina law and claims all rights to which he or she is entitled under Part 2 of Article 2 of Chapter 44A of the General Statutes of North Carolina.

Dated: _____

_____, Lien Claimant

(Address)

(d) Notices of claims of lien upon funds under this section shall be served upon the obligor by personal delivery or in any manner authorized by Rule 4 of the North Carolina Rules of Civil Procedure. A copy of the notice of claim of lien upon funds shall be attached to any claim of lien on real property filed pursuant to ~~G.S. 44A-20(d) or G.S. 44A-23.~~ G.S. 44A-20(d).

(e) Notices of claims of lien upon funds shall not be filed with the clerk of superior court and shall not be indexed, docketed, or recorded in any way as to affect title to any real property, except a notice of a claim of lien upon funds may be filed with the clerk of superior court under either of the following circumstances:

(1) When the notice of claim of lien upon funds is attached to a claim of lien on real property filed pursuant to ~~G.S. 44A-20(d) or~~ G.S. 44A-20(d).

(2) When the notice of claim of lien upon funds is filed by the obligor for the purpose of discharging the claim of lien upon funds in accordance with G.S. 44A-20(e).

(f) Filing a notice of claim of lien upon funds pursuant to subsection (e) of this section is not a violation of G.S. 44A-12.1."

SECTION 8. G.S. 44A-20 reads as rewritten:

"§ 44A-20. Duties and liability of obligor.

(a) Upon receipt of the notice of claim of lien upon funds provided for in this Article, the obligor shall be under a duty to retain any funds subject to the lien or liens upon funds under this Article up to the total amount of such liens upon funds as to which notices of claims of lien upon funds have been received.

(b) If, after the receipt of the notice of claim of lien upon funds to the obligor, the obligor makes further payments to a contractor or subcontractor against whose interest the lien or liens upon funds are claimed, the lien upon funds shall continue upon the funds in the hands of the contractor or subcontractor who received the payment, and in addition the obligor shall be personally liable to the person or persons entitled to liens upon funds up to the amount of such wrongful payments, not exceeding the total claims with respect to which the notice of claim of lien upon funds was received prior to payment.

(c) If an obligor makes a payment after receipt of notice of claim of lien on funds and incurs personal liability under subsection (b) of this section, the obligor shall be entitled to reimbursement and indemnification from the party receiving such payment.

(d) If the obligor is an owner of the property being improved, the lien claimant shall be entitled to a claim of lien upon real property upon the interest of the obligor in the real property to the extent of the owner's personal liability under subsection (b) of this section, which claim of lien on real property shall be enforced only in the manner set forth in G.S. 44A-7 through G.S. 44A-16 and which claim of lien on real property shall be entitled to the same priorities and subject to the same filing requirements and periods of limitation applicable to the contractor. The claim of lien on real property is perfected as of the time set forth in G.S. 44A-10 upon the filing of the claim of lien on real property pursuant to G.S. 44A-12. A lien waiver signed by the contractor prior to the commencement of an action to enforce a perfected claim of lien on real property granted under G.S. 44A-23 waives the subcontractor's right to enforce the contractor's claim of lien on real property, but does not affect the subcontractor's right to a claim of lien on funds or the subcontractor's right to a claim of lien on real property allowed under this subsection. The claim of lien on real property as provided under this subsection shall be in the form set out in G.S. 44A-12(c) and shall contain, in addition, a copy of the notice of claim of lien upon funds given pursuant to G.S. 44A-19 as an exhibit together with proof of service thereof by affidavit, and shall state the grounds the lien claimant has to believe that the obligor is personally liable for the debt under subsection (b) of this section.

(e) A notice of claim of lien upon funds under G.S. 44A-19 may be filed by the obligor with the clerk of superior court in each county where the real property upon which the filed notice of claim of lien upon funds is located for the purpose of discharging the notice of claim of lien upon funds by any of the methods described in G.S. 44A-16.

(f) A bond deposited under this section to discharge a filed notice of claim of lien upon funds shall be effective to discharge any claim of lien on real property filed by the same lien claimant pursuant to subsection (d) of this section or G.S. 44A-23 and shall further be effective to discharge any notices of claims of lien upon funds served by lower tier subcontractors or any claims of lien on real property filed by lower tier subcontractors pursuant to subsection (d) of this section or G.S. 44A-23 claiming through or against the contractor or higher tier subcontractors up to the amount of the bond."

SECTION 9. G.S. 44A-23 reads as rewritten:

"§ 44A-23. Contractor's claim of lien on real property; perfection of subrogation rights of subcontractor.

(a) First tier subcontractor. – A first tier ~~subcontractor, who gives notice of claim of lien upon funds as provided in this Article,~~ subcontractor may, to the extent of ~~this~~ its claim, enforce the claim of lien on real property of the contractor created by Part 1 of this Article. The manner of such enforcement shall be as provided by G.S. 44A-7 through 44A-16. The claim of lien on real property is perfected as of the time set forth in G.S. 44A-10 upon filing of the claim of lien on real property pursuant to G.S. 44A-12. When completing the claim of lien on real property form, the subcontractor may use as the date upon which labor or materials were first or last

furnished on the real property either the date of the first or last furnishing of labor or materials on the real property by the subcontractor making the claim or the date of the first or last furnishing of labor or materials on the real property by the contractor through which the claim of lien on real property is being asserted. Upon the filing of the claim of lien on real property, with the notice of claim of lien upon funds attached, property and the commencement of the action, no action of the contractor shall be effective to prejudice the rights of the subcontractor without his written consent.

(b) Second or third tier subcontractor. –

(1) A second or third tier ~~subcontractor, who gives notice of claim of lien upon funds as provided in this Article,~~ subcontractor may, to the extent of his claim, enforce the claim of lien on real property of the contractor created by Part 1 of Article 2 of the Chapter except when:

- a. The owner or contractor, within 30 days following the date the ~~building permit~~ is issued for the improvement of the real property ~~involved,~~ involved or within 30 days following the date the contractor is awarded the contract for the improvement of the real property involved, whichever is later, posts on the property in a visible location adjacent to the posted ~~building permit permit,~~ if a permit is required, and files in the office of the clerk of superior court in each county wherein the real property to be improved is located, a completed and signed notice of contract form and the second or third tier subcontractor fails to serve upon the contractor a completed and signed notice of subcontract form by the same means of service as described in G.S. 44A-19(d); or
- b. After the posting and filing of a signed notice of contract and the service upon the contractor of a signed notice of subcontract, the contractor serves upon the second or third tier subcontractor, within five days following each subsequent payment, by the same means of service as described in G.S. 44A-19(d), the written notice of payment setting forth the date of payment and the period for which payment is made as requested in the notice of subcontract form set forth herein.

(2) The form of the notice of contract to be so utilized under this section shall be substantially as follows and the fee for filing the same with the clerk of superior court shall be the same as charged for filing a claim of lien on real property:

"NOTICE OF CONTRACT

"(1) Name and address of the Contractor:

"(2) Name and address of the owner of the real property at the time this Notice of Contract is recorded:

"(3) General description of the real property to be improved (street address, tax map lot and block number, reference to recorded instrument, or any other description that reasonably identifies the real property):

"(4) Name and address of the person, firm or corporation filing this Notice of Contract:

"Dated: _____

"Contractor

"Filed this the ___ day of _____, ____.

Clerk of Superior Court"

(3) The form of the notice of subcontract to be so utilized under this section shall be substantially as follows:

"NOTICE OF SUBCONTRACT

"(1) Name and address of the subcontractor:

"(2) General description of the real property ~~where on which~~ the labor was performed or the material was furnished (street address, tax map lot and block number, reference to recorded instrument, or any description that reasonably identifies the real property):

"(3)

"(i) General description of the subcontractor's contract, including the names of the parties thereto:

"(ii) General description of the labor and material performed and furnished thereunder:

"(4) Request is hereby made by the undersigned subcontractor that he be notified in writing by the contractor of, and within five days following, each subsequent payment by the contractor to the first tier subcontractor for labor performed or material furnished at the improved real property within the above descriptions of such in paragraph (2) and subparagraph (3)(ii), respectively, the date payment was made and the period for which payment is made.

"Dated: _____

Subcontractor"

(4) The manner of such enforcement shall be as provided by G.S. 44A-7 through G.S. 44A-16. The lien is perfected as of the time set forth in G.S. 44A-10 upon the filing of a claim of lien on real property pursuant to G.S. 44A-12. Upon the filing of the claim of lien on real ~~property, with the notice of claim of lien upon funds attached,~~ property and the commencement of the action, no action of the contractor shall be effective to prejudice the rights of the second or third tier subcontractor without his written consent.

(c) A lien waiver signed by the contractor prior to the commencement of an action to enforce a perfected claim of lien on real property granted under this section waives the subcontractor's right to enforce the contractor's claim of lien on real property, but does not affect the subcontractor's right to a claim of lien on funds or the subcontractor's right to a claim of lien on real property allowed under G.S. 44A-20(d)."

SECTION 10. G.S. 44A-24 reads as rewritten:

"§ 44A-24. False statement a ~~misdemeanor~~, misdemeanor and grounds for disciplinary action against a licensed contractor or qualifying party.

If any contractor or other person receiving payment from an obligor for an improvement to real property or from a purchaser for a conveyance of real property with improvements subject to this Article or to Article 3 of this Chapter shall knowingly furnish to such obligor, purchaser, or to a lender who obtains a security interest in said real property, or to a title insurance company insuring title to such real property, a false written statement of the sums due or claimed to be due for labor or material furnished at the site of improvements to such real property, then such contractor, subcontractor or other person shall be guilty of a Class 1 misdemeanor. Upon conviction and in the event the court shall grant any defendant a suspended sentence, the court may in its discretion include as a condition of such suspension a provision that the defendant shall reimburse the party who suffered loss on such conditions as the court shall determine are proper.

The elements of the offense herein stated are the furnishing of the false written statement with knowledge that it is false and the subsequent or simultaneous receipt of payment from an obligor or ~~purchaser, and in any purchaser by the person signing the document, a person directing another to sign the document, or any person or entity for whom the document was signed.~~ In any criminal prosecution hereunder it shall not be necessary for the State to prove that the obligor, purchaser, lender or title insurance company relied upon the false statement or that any person was injured thereby.

In addition to the criminal sanctions created by this section, conduct constituting the offense herein stated and causing actual harm to any person by any licensed contractor or qualifying

party, as that term is used in Chapter 87 of the General Statutes, shall constitute deceit and misconduct subject to disciplinary action under Chapter 87 of the General Statutes, including revocation, suspension, or restriction of a license or the ability to act as a qualifying party for a license."

SECTION 11. G.S. 44A-27 reads as rewritten:

"§ 44A-27. Actions on payment bonds; service of notice.

(a) Subject to the provision of subsection (b) hereof, any claimant who has performed labor or furnished materials in the prosecution of the work required by any contract for which a payment bond has been given pursuant to the provisions of this Article, and who has not been paid in full therefor before the expiration of 90 days after the day on which the claimant performed the last such labor or furnished the last such materials for which he claims payment, may bring an action on such payment bond in his own name, to recover any amount due him for such labor or materials and may prosecute such action to final judgment and have execution on the judgment.

(b) Any claimant who has a direct contractual relationship with any subcontractor but has no contractual relationship, express or implied, with the contractor may bring an action on the payment bond only if he has given written notice of claim on payment bond to the contractor within 120 days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. The contractor shall furnish a copy of the payment bond required by this Article within seven calendar days in response to a written request served by any claimant in accordance with the provisions of subsection (c) of this section. Subject to the exception set forth in subsection (e) of this section, unless the contractor has failed to satisfy its obligation to timely furnish a copy of the payment bond to a claimant upon proper request by the claimant, the claim of such a claimant shall not include labor or materials provided more than 75 days prior to the claimant's service, in accordance with subsections (c) and (d) of this section, of its written notice of public subcontract to the contractor.

(c) The ~~notice~~ notices required by and any requests for copy of payment bond referenced by subsection ~~(b)~~(b) of this section, ~~above~~, shall be served by registered or certified mail, or by signature confirmation as provided by the United States Postal Service, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business or to such agent identified in the contractor's project statement referenced in subdivision (1) of subsection (f) of this section or served in any manner provided by law for the service of summons.

(d) The form of the notice of public subcontract to be served pursuant to subsection (b) of this section shall be substantially as follows:

"NOTICE OF PUBLIC SUBCONTRACT

- (1) Name and address of the subcontractor giving notice of public subcontract:
- (2) General description of the real property on which the labor was or is to be performed or the material was or is to be furnished (street address, tax map lot and block number, reference to recorded instrument, or any description that reasonably identifies the real property):
- (3) General description of the subcontractor's contract, including the names and addresses of the parties thereto:
- (4) General description of the labor and material performed and furnished thereunder:

Dated: _____

Subcontractor"

(e) Notwithstanding subsections (b), (c), and (d) of this section, the obligation to provide a notice of public subcontract shall not apply to claims of twenty thousand dollars (\$20,000) or less and, for any claim exceeding twenty thousand dollars (\$20,000), shall apply only to that portion of the claim in excess of twenty thousand dollars (\$20,000).

(f) In connection with any construction contract for which a bond is required by G.S. 44A-26(a), all of the following shall apply:

- (1) The contractor shall provide to each subcontractor that it engages to perform labor or furnish materials in the performance of the construction contract a contractor's project statement containing all of the following information:
 - a. The name of the project.
 - b. The physical address of the project.
 - c. The name of the contracting body.
 - d. The name of the contractor.
 - e. The name, phone number, and mailing address of an agent authorized by the contractor to accept service of the requests for payment bond, the notice of public subcontract, and the notice of claim on payment bond referenced in subsection (b) of this section.
 - f. The name and address of the principal place of business of the surety issuing the payment bond required by G.S. 44A-26(a) for the construction contract.
- (2) Each subcontractor shall provide each subcontractor that it engages to perform labor or furnish materials in the performance of the construction contract a copy of the contractor's project statement.
- (3) No agreement entered into between a contractor and a subcontractor or between a subcontractor and its subcontractor shall be enforceable against the lower tier party until the contractor's project statement has been provided to the lower tier party."

SECTION 12.(a) G.S. 44A-4(b) reads as rewritten:

"§ 44A-4. Enforcement of lien by sale.

...

(b) Notice and Hearings. –

- (1) If the property upon which the lien is claimed is a motor vehicle that is required to be registered, the lienor following the expiration of the relevant time period provided by subsection (a) shall give notice to the Division of Motor Vehicles that a lien is asserted and sale is proposed and shall remit to the Division a fee of ten dollars (\$10.00). The Division of Motor Vehicles shall issue notice by ~~registered or~~ certified mail, return receipt requested, to the person having legal title to the property, if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party and other person claiming an interest in the property who is actually known to the Division or who can be reasonably ascertained. The notice shall state that a lien has been asserted against specific property and shall identify the lienor, the date that the lien arose, the general nature of the services performed and materials used or sold for which the lien is asserted, the amount of the lien, and that the lienor intends to sell the property in satisfaction of the lien. The notice shall inform the recipient that the recipient has the right to a judicial hearing at which time a determination will be made as to the validity of the lien prior to a sale taking place. The notice shall further state that the recipient has a period of 10 days from the date of receipt in which to notify the Division by ~~registered or~~ certified mail, return receipt requested, that a hearing is desired and that if the recipient wishes to contest the sale of his property pursuant to such lien, the recipient should notify the Division that a hearing is desired. The notice shall state the

required information in simplified terms and shall contain a form whereby the recipient may notify the Division that a hearing is desired by the return of such form to the Division. The Division shall notify the lienor whether such notice is timely received by the Division. In lieu of the notice by the lienor to the Division and the notices issued by the Division described above, the lienor may issue notice on a form approved by the Division pursuant to the notice requirements above. If notice is issued by the lienor, the recipient shall return the form requesting a hearing to the lienor, and not the Division, within 10 days from the date the recipient receives the notice if a judicial hearing is requested. If the ~~registered or~~ certified mail notice has been returned as undeliverable and the notice of a right to a judicial hearing has been given to the owner of the motor vehicle in accordance with G.S. 20-28.4, no further notice is required. Failure of the recipient to notify the Division or lienor, as specified in the notice, within 10 days of the receipt of such notice that a hearing is desired shall be deemed a waiver of the right to a hearing prior to the sale of the property against which the lien is asserted, and the lienor may proceed to enforce the lien by public or private sale as provided in this section and the Division shall transfer title to the property pursuant to such sale. If the Division or lienor, as specified in the notice, is notified within the 10-day period provided above that a hearing is desired prior to sale, the lien may be enforced by sale as provided in this section and the Division will transfer title only pursuant to the order of a court of competent jurisdiction.

If the ~~registered or~~ certified mail notice has been returned as undeliverable, or if the name of the person having legal title to the vehicle cannot reasonably be ascertained and the fair market value of the vehicle is less than eight hundred dollars (\$800.00), the lienor may institute a special proceeding in the county where the vehicle is being held, for authorization to sell that vehicle. Market value shall be determined by the schedule of values adopted by the Commissioner under G.S. 105-187.3.

In such a proceeding a lienor may include more than one vehicle, but the proceeds of the sale of each shall be subject only to valid claims against that vehicle, and any excess proceeds of the sale shall be paid immediately to the Treasurer for disposition pursuant to Chapter 116B of the General Statutes.

The application to the clerk in such a special proceeding shall contain the notice of sale information set out in subsection (f) hereof. If the application is in proper form the clerk shall enter an order authorizing the sale on a date not less than 14 days therefrom, and the lienor shall cause the application and order to be sent immediately by first-class mail pursuant to G.S. 1A-1, Rule 5, to each person to whom notice was mailed pursuant to this subsection. Following the authorized sale the lienor shall file with the clerk a report in the form of an affidavit, stating that the lienor has complied with the public or private sale provisions of G.S. 44A-4, the name, address, and bid of the high bidder or person buying at a private sale, and a statement of the disposition of the sale proceeds. The clerk then shall enter an order directing the Division to transfer title accordingly.

If prior to the sale the owner or legal possessor contests the sale or lien in a writing filed with the clerk, the proceeding shall be handled in accordance with G.S. 1-301.2.

- (2) If the property upon which the lien is claimed is other than a motor vehicle required to be registered, the lienor following the expiration of the 30-day period provided by subsection (a) shall issue notice to the person having legal title to the property, if reasonably ascertainable, and to the person with

whom the lienor dealt if different by ~~registered or~~ certified mail, return receipt requested. Such notice shall state that a lien has been asserted against specific property and shall identify the lienor, the date that the lien arose, the general nature of the services performed and materials used or sold for which the lien is asserted, the amount of the lien, and that the lienor intends to sell the property in satisfaction of the lien. The notice shall inform the recipient that the recipient has the right to a judicial hearing at which time a determination will be made as to the validity of the lien prior to a sale taking place. The notice shall further state that the recipient has a period of 10 days from the date of receipt in which to notify the lienor by ~~registered or~~ certified mail, return receipt requested, that a hearing is desired and that if the recipient wishes to contest the sale of his property pursuant to such lien, the recipient should notify the lienor that a hearing is desired. The notice shall state the required information in simplified terms and shall contain a form whereby the recipient may notify the lienor that a hearing is desired by the return of such form to the lienor. Failure of the recipient to notify the lienor within 10 days of the receipt of such notice that a hearing is desired shall be deemed a waiver of the right to a hearing prior to sale of the property against which the lien is asserted and the lienor may proceed to enforce the lien by public or private sale as provided in this section. If the lienor is notified within the 10-day period provided above that a hearing is desired prior to sale, the lien may be enforced by sale as provided in this section only pursuant to the order of a court of competent jurisdiction."

SECTION 12.(b) G.S. 44A-24.10 reads as rewritten:

"§ 44A-24.10. Lien extinguished for lien claimant failing to file suit or answer in pending suit within 30 days after service on owner.

If a lien claimant fails to file a suit to enforce the lien or fails to file an answer in a pending suit to enforce a lien within 30 days after a properly served written demand of the owner, lienee, or other authorized agent, the lien shall be extinguished. Service of the demand shall be by ~~registered or~~ certified mail, return receipt requested, or by personal service. The claimant shall file proof of properly served written demand with the clerk of the superior court. The provisions of this section shall not extend to any other deadline provided by law for the filing of any pleadings or for the foreclosure of any lien governed by this Part."

SECTION 12.(c) G.S. 44A-43 reads as rewritten:

"§ 44A-43. Enforcement of self-service storage facility lien.

...

(b) Notice and Hearing:

- (1) If the property upon which the lien is claimed is a motor vehicle, the lienor, following the expiration of the 15-day period provided by subsection (a), shall give notice to the Division of Motor Vehicles that a lien is asserted and that a sale is proposed. The lienor shall remit to the Division a fee of two dollars (\$2.00); and shall also furnish the Division with the last known address of the occupant. The Division of Motor Vehicles shall issue notice by ~~registered or~~ certified mail, return receipt requested to the person having legal title to the vehicle, if reasonably ascertainable, and to the occupant, if different, at his last known address. The notice shall:

...

- c. State that the legal title holder and the occupant have a period of 10 days from the date of receipt of the notice in which to notify the Division of Motor Vehicles by ~~registered or~~ certified mail, return receipt requested, that a hearing is desired to contest the sale of the vehicle pursuant to the lien.

The person with legal title or the occupant must, within 10 days of receipt of the notice from the Division of Motor Vehicles, notify the Division of his desire to contest the sale of the vehicle pursuant to the lien, and that the Division should so notify lienor.

Failure of the person with legal title or the occupant to notify the Division that a hearing is desired shall be deemed a waiver of the right to a hearing prior to sale of the vehicle against which the lien is asserted. Upon such failure, the Division shall so notify the lienor; the lienor may proceed to enforce the lien by a public sale as provided by this section; and the Division shall transfer title to the property pursuant to such sale.

If the Division is notified within the 10-day period provided in this section that a hearing is desired prior to the sale, the lien may be enforced by a public sale as provided in this section and the Division will transfer title only pursuant to the order of a court of competent jurisdiction.

...
(c) Public Sale. –

(1) Not less than 20 days prior to sale by public sale the lienor:

- a. Shall cause notice to be delivered by ~~registered or~~ certified mail to the person having a security interest in the property if reasonably ascertainable, and to the occupant at the occupant's last known address. Notice given pursuant to this subdivision shall be presumed delivered when it is properly addressed, first-class postage prepaid, and deposited with the United States Postal Service.

...."

SECTION 13. Sections 1 through 3 and Sections 5 through 11 of this act become effective January 1, 2013, and apply to improvements to real property for which the first permit required to be obtained is obtained on or after that date or, with respect to projects for which no permit is required, apply to improvement to real property commenced on or after that date. Sections 4, 12, and 13 of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 4:48 p.m. on the 12th day of July, 2012.

Session Law 2012-176

H.B. 1044

AN ACT TO ALLOW MEMBERS OF THE MILITARY WHO HAVE TAKEN A COMPARABLE MOTORCYCLE SAFETY PROGRAM PROVIDED BY FEDERALLY CERTIFIED INSTRUCTORS TO RECEIVE THE SAME MOTORCYCLE INSURANCE DISCOUNT AS CITIZENS WHO COMPLETE THE MOTORCYCLE SAFETY INSTRUCTION PROGRAM, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON MILITARY AFFAIRS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-36-65(m) reads as rewritten:

"(m) Notwithstanding any other provision of law, with respect to motorcycle insurance under the jurisdiction of the Bureau, any member of the Bureau may apply for and use in this State, subject to the Commissioner's approval, a downward deviation in the rates of insureds who show proof of satisfactory completion of the Motorcycle Safety Instruction ~~Program~~ Program or a comparable motorcycle safety program provided by federally certified instructors for members of the military."

SECTION 2. This act becomes effective October 1, 2012, and applies to policies issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 4:49 p.m. on the 12th day of July, 2012.

Session Law 2012-177

S.B. 951

AN ACT TO TRANSFER THE CLEVELAND COUNTY CORRECTIONAL FACILITY TO CLEVELAND COUNTY COMMUNITY COLLEGE AND TO TRANSFER THE HAYWOOD CORRECTIONAL CENTER TO THE HAYWOOD COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

SECTION 1. The State of North Carolina shall convey to the Board of Trustees of Cleveland Community College, for consideration of one dollar (\$1.00), all its right, title, and interest in the property used for the former Cleveland County Correctional Facility, more particularly described as that portion of Parcel 22252 Cleveland County, deed reference Book 4F, Page 064, consisting of approximately 13.25 acres currently allocated to the Department of Public Safety, Division of Adult Corrections, SPO File No. 23-008. The conveyance is subject to a reversionary interest reserved by the State. The property shall be conveyed to the Board of Trustees of Cleveland Community College for so long as it is utilized for educational purposes consistent with the mission of the North Carolina Community College System.

SECTION 2. The State of North Carolina shall convey the real property described in Section 1 "as is" "where is" without warranty. The State makes no representations or warranties concerning the title to the property, the boundaries of the property, the uses to which the property may be put, zoning, local ordinances, or any physical, environmental, health, and safety conditions relating to the property. All costs associated with the conveyance of the property shall be borne by Cleveland Community College.

SECTION 3. The conveyance of the State's right, title, and interest in the Cleveland County Correctional Facility shall be exempt from the provisions of Article 7 of Chapter 146 of the General Statutes. The conveyance shall comply with the provisions of Article 16 of Chapter 146 of the General Statutes; provided that the provisions of G.S. 146-74 shall not apply.

SECTION 3.1. The State of North Carolina shall convey to the Haywood County Board of Commissioners, for consideration of one dollar (\$1.00), all its right, title, and interest in the property used for the former Haywood Correctional Center, more particularly described as Haywood County deed reference Book 66, page 297, consisting of 2.2447 acres at 208 Welch Street, Waynesville, North Carolina. The conveyance is subject to a reversionary interest reserved by the State. The property shall be conveyed to the Haywood County Board of Commissioners for so long as it is utilized for county government purposes.

SECTION 3.2. The State of North Carolina shall convey the real property described in Section 3.1 "as is" "where is" without warranty. The State makes no representations or warranties concerning the title to the property, the boundaries of the property, the uses to which the property may be put, zoning, local ordinances, or any physical, environmental, health, and safety conditions relating to the property. All costs associated with the conveyance of the property shall be borne by Haywood County.

SECTION 3.3. The conveyance of the State's right, title, and interest in the Haywood Correctional Center shall be exempt from the provisions of Article 7 of Chapter 146 of the General Statutes. The conveyance shall comply with the provisions of Article 16 of Chapter 146 of the General Statutes; provided that the provisions of G.S. 146-74 shall not apply.

SECTION 4. Sections 1 through 3 of this act become effective July 1, 2014. The remainder of this act becomes effective January 1, 2013.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 4:50 p.m. on the 12th day of July, 2012.

Session Law 2012-178

S.B. 803

AN ACT TO MAKE CHANGES TO ADMINISTRATION OF THE STATE RETIREMENT SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-32.01(c) reads as rewritten:

"(c) Consistent with subsection (a) of this section and notwithstanding any other law relating to privacy of personnel records, the Retirement Systems Division of the Department of State Treasurer shall furnish the Fiscal Research Division direct online read-only access to active and retired member information or records maintained by the Retirement Systems Division in online information systems. Direct online read-only access shall not include access to medical records of individual ~~members~~. members or to tax records and other tax-related documents of members and beneficiaries. Nothing in this subsection shall limit the provisions of subsection (a) of this section."

SECTION 2. G.S. 128-27(k) reads as rewritten:

"(k) **Post-Retirement Increases in Allowances.** – As of December 31, 1969, the ratio of the Consumer Price Index to such index one year earlier shall be determined. If such ratio indicates an increase that equals or exceeds three per centum (3%), each beneficiary receiving a retirement allowance as of December 31, 1968, shall be entitled to have his allowance increased three per centum (3%) effective July 1, 1970.

As of December 31, 1970, the ratio of the Consumer Price Index to such index one year earlier shall be determined. If such ratio indicates an increase of at least one per centum (1%), each beneficiary on the retirement rolls as of July 1, 1970, shall be entitled to have his allowance increased effective July 1, 1971, as follows:

Increase In Index	Increase In Allowance
1.00 to 1.49%	1%
1.50 to 2.49%	2%
2.50 to 3.49%	3%
3.50% or more	4%

As of December 31, 1971, an increase in retirement allowances shall be calculated and made effective July 1, 1972, in the manner described in the preceding paragraph. As of December 31 of each year after 1971, the ratio (R) of the Consumer Price Index to such index one year earlier shall be determined, and each beneficiary on the retirement rolls as of July 1 of the year of determination shall be entitled to have his allowance increased effective on July 1 of the year following the year of determination by the same percentage of increase indicated by the ratio (R) calculated to the nearest tenth of one per centum (1/10 of 1%), but not more than four per centum (4%); provided that any such increase in allowances shall be contingent upon the total fund providing sufficient investment gains to cover the additional actuarial liabilities on account of such increase. The determination of whether there are sufficient investment gains to cover the possible postretirement increase in allowance shall reside exclusively within the discretion of the Board of Trustees and shall be informed by the findings within the annual actuarial valuation reports. In considering whether to grant a postretirement increase, the Board of Trustees shall take into account both the rate of inflation as determined by the Consumer Price Index and the record of investment gains or losses during the preceding three-year period.

The allowance of a surviving annuitant of a beneficiary whose allowance is increased under this subsection shall, when and if payable, be increased by the same per centum.

Any increase in allowance granted hereunder shall be permanent, irrespective of any subsequent decrease in the Consumer Price Index, and shall be included in determining any subsequent increase.

Notwithstanding the foregoing linkage between increases in the Consumer Price Index and correlative contingent increases in retirement benefits determined by the availability of sufficient investment gains to cover the additional actuarial liabilities arising from those increased benefits, the Board of Trustees, may in any year, considering an increase, if any, in the Consumer Price Index, fund a cost-of-living increase in a percentage amount, measured in tenths of one percent (1/10 of 1%), of up to four percent (4%), provided that the Board may use only investment gains to fund such an increase.

For purposes of this subsection, Consumer Price Index shall mean the Consumer Price Index (all items – United States city average), as published by the United States Department of Labor, Bureau of Labor Statistics."

SECTION 3. G.S. 128-30(d) reads as rewritten:

"(d) Pension Accumulation Fund. – The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and other benefits payable from contributions made by employers and from which shall be paid all pensions and other benefits on account of members with prior service credit. Contributions to and payments from the pension accumulation fund shall be made as follows:

- ...
- (3) The "accrued liability contribution" shall be set for each employer on the basis of the prior service credits allowable to the employees thereof, who are entitled to prior service certificates, and shall be paid for a period of approximately 30 years, provided that the length of the period of payment for each employer after contributions begin ~~shall be the same for all employers and~~ shall be determined by the Board of Trustees as the result of actuarial valuations.

...."

SECTION 4.(a) G.S. 120-4.32 reads as rewritten:

"§ 120-4.32. ~~Deduction for payments to certain employees' or retirees' associations allowed.~~

(a) Any beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit.

(b) Any beneficiary eligible for coverage under the State Health Plan may also authorize, in writing, the monthly deduction from the beneficiary's retirement benefits of a designated lump sum to be paid to the State Health Plan for any dependent whom the beneficiary wishes to cover under the State Health Plan. In the event that the beneficiary's own State Health Plan coverage is contributory, in whole or in part, the beneficiary may also authorize a designated lump sum to be paid to the State Health Plan on behalf of the beneficiary. In addition, a beneficiary may similarly authorize the deduction for supplemental voluntary insurance benefits, provided that the deduction is authorized by the Department of State Treasurer and is payable to a company with which the Department of State Treasurer has or had an exclusive contractual relationship. Any such authorization shall remain in effect until revoked by the beneficiary."

SECTION 4.(b) G.S. 128-38.3 reads as rewritten:

"§ 128-38.3. Deduction for ~~payment to certain employees' associations~~ payments allowed.

(a) Any beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of employers as defined in G.S. 128-21(11), may authorize, in writing, the periodic deduction from the beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit.

(b) Any beneficiary eligible for coverage under the State Health Plan may also authorize, in writing, the monthly deduction from the beneficiary's retirement benefits of a designated lump sum to be paid to the State Health Plan for any dependent whom the beneficiary wishes to cover under the State Health Plan. In the event that the beneficiary's own State Health Plan coverage is contributory, in whole or in part, the beneficiary may also authorize a designated lump sum to be paid to the State Health Plan on behalf of the beneficiary. In addition, a beneficiary may similarly authorize the deduction for supplemental voluntary insurance benefits, provided that the deduction is authorized by the Department of State Treasurer and is payable to a company with which the Department of State Treasurer has or had an exclusive contractual relationship. Any such authorization shall remain in effect until revoked by the beneficiary."

SECTION 4.(c) G.S. 135-18.8 reads as rewritten:

"§ 135-18.8. Deduction for payments ~~to certain employees' or retirees' associations~~ allowed.

(a) Any beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State may authorize, in writing, the periodic deduction from the beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit.

(b) Any beneficiary may also authorize, in writing, the monthly deduction from the beneficiary's retirement benefits of a designated lump sum to be paid to the State Health Plan for any dependent whom the beneficiary wishes to cover under the State Health Plan. In the event that the beneficiary's own State Health Plan coverage is contributory, in whole or in part, the beneficiary may also authorize a designated lump sum to be paid to the State Health Plan on behalf of the beneficiary. In addition, a beneficiary may similarly authorize the deduction for supplemental voluntary insurance benefits, provided that the deduction is authorized by the Department of State Treasurer and is payable to a company with which the Department of State Treasurer has or had an exclusive contractual relationship. Any such authorization shall remain in effect until revoked by the beneficiary."

SECTION 4.(d) G.S. 135-75 reads as rewritten:

"§ 135-75. Deduction for payments ~~to certain employees' or retirees' associations~~ allowed.

(a) Any beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit.

(b) Any beneficiary eligible for coverage under the State Health Plan may also authorize, in writing, the monthly deduction from the beneficiary's retirement benefits of a designated lump sum to be paid to the State Health Plan for any dependent whom the beneficiary wishes to cover under the State Health Plan. In the event that the beneficiary's own State Health Plan coverage is contributory, in whole or in part, the beneficiary may also authorize a designated lump sum to be paid to the State Health Plan on behalf of the beneficiary. In addition, a beneficiary may similarly authorize the deduction for supplemental voluntary insurance benefits, provided that the deduction is authorized by the Department of State Treasurer and is payable to a company with which the Department of State Treasurer has or had an exclusive contractual relationship. Any such authorization shall remain in effect until revoked by the beneficiary."

SECTION 5. G.S. 135-106(b) reads as rewritten:

"(b) After the commencement of benefits under this section, the benefits payable under the terms of this section during the first 36 months of the long-term disability period shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced by any primary Social Security disability benefits and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. When primary Social Security disability benefits are increased by cost-of-living adjustments, the increased reduction shall be applied in the first month following the month in which the member becomes entitled to the increased Social Security benefit. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal Department of Veterans Affairs, any other federal agency or any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00) a month. However, a disabled participant may elect to receive any salary continuation as provided in G.S. 135-104 in lieu of long-term disability benefits; provided such election shall not extend the first 36 consecutive calendar months of the long-term disability period. An election to receive any salary continuation for any part of any given day shall be in lieu of any long-term benefit payable for that day, provided further, any lump-sum payout for vacation leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in lieu of any long-term benefit otherwise payable. Provided that, in any event, a beneficiary's benefit shall be reduced during the first 36 months of the long-term disability period by an amount, as determined by the Board of Trustees, equal to a primary Social Security retirement benefit to which the beneficiary might be entitled.

After 36 months of long-term disability, no further benefits are payable under the terms of this section unless the member has been approved and is in receipt of primary Social Security disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced by the primary Social Security disability benefits and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. When primary Social Security disability benefits are increased by cost-of-living adjustments, the increased reduction shall be applied in the first month following the month in which the member becomes entitled to the increased Social Security benefit. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal Department of Veterans Affairs, for payments from any other federal agency, or for any payments made under the provisions of G.S. 127A-108, to which the

participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00) a month.

Notwithstanding the ~~foregoing, foregoing~~, but subject to an additional integration with the five-year and 10-year retirement vesting provisions as set forth in this paragraph, the long-term disability benefit is payable so long as the beneficiary is disabled and is in receipt of a primary Social Security disability benefit until the earliest date at which the beneficiary who became a member prior to August 1, 2011, is eligible for an unreduced service retirement allowance from the Retirement System, at which time the beneficiary would receive a retirement allowance calculated on the basis of the beneficiary's average final compensation at the time of disability as adjusted to reflect compensation increases subsequent to the time of disability and the creditable service accumulated by the beneficiary, including creditable service while in receipt of benefits under the Plan. In the case of any long-term disability beneficiary who became a member on and after August 1, 2011, and ordinarily would not be eligible for a retirement benefit without 10 years of membership service, for purposes of this conversion from long-term disability to service retirement, and for that purpose only, noncontributory creditable service granted while in receipt of disability benefits under this Article shall be deemed to be membership service, through the completion of 10 years of combined membership and noncontributory service on short-term and long-term disability benefits in total. In the event the beneficiary has not been approved and is not in receipt of a primary Social Security disability benefit, the long-term disability benefit shall cease after the first 36 months of the long-term disability period. When such a long-term disability recipient begins receiving this unreduced service retirement allowance from the System, that recipient shall not be subject to the six-month waiting period set forth in G.S. 135-1(20). However, a beneficiary shall be entitled to a restoration of the long-term disability benefit in the event the Social Security Administration grants a retroactive approval for primary Social Security disability benefits with a benefit effective date within the first 36 months of the long-term disability period. In such event, the long-term disability benefit shall be restored retroactively to the date of cessation."

SECTION 6. G.S. 147-69.2(b)(8) reads as rewritten:

"(8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firemen's and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension ~~Fund~~ Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), and assets invested pursuant to subdivision (b2) of this section, they may be invested in equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of such exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States; provided the investments meet the conditions of this subdivision. The investments authorized for the Retirement Systems under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems.

The assets authorized under this subdivision may be invested directly by the State Treasurer in any equity securities authorized by this subdivision for the primary purpose of approximating the movements of a nationally recognized and published market benchmark index. No more than one and one-half percent (1.5%) of the market value of the Retirement Systems' assets that may be invested directly under this subdivision can be invested in the stock of a single corporation, and the total number of shares in that single corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.

So long as each investment manager has assets under management of at least one hundred million dollars (\$100,000,000), the assets authorized under this subdivision may also be invested through any of the following:

- a. Investment companies registered under the Investment Company Act of 1940; individual, common, or collective trust funds of banks and trust companies; and group trusts that invest primarily in investments authorized by this subdivision.
- b. Limited partnerships, limited liability companies, or other limited liability investment vehicles that are not publicly traded and invest primarily in investments authorized by this subdivision. Investments under this sub-subdivision shall not exceed six and one-half percent (6.5%) of the market value of all invested assets of the Retirement Systems.
- c. Contractual arrangements in which investment managers have full and complete discretion and authority to invest assets specified in such contractual arrangements in investments authorized by this subdivision."

SECTION 7. This act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 4:51 p.m. on the 12th day of July, 2012.

Session Law 2012-179

S.B. 755

AN ACT TO ENACT THE EQUAL ACCESS ACT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) This act shall be known as the Equal Access Act.

SECTION 1.(b) Article 22 of Subchapter V of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 9. Equal Access Act.

"§ **115C-335.9. Equal access for all education employee associations.**

(a) As used in this section, the following definitions apply:

- (1) "Education employee association" includes teacher associations, teacher organizations, and classified education employees' associations.
- (2) "School" means a charter school or a school operated by a local school administrative unit, the State Board of Education, or a State agency.

(b) It is the intent of the General Assembly that all education employee associations have equal access to employees at schools and that schools not favor nor endorse an education employee association; therefore, neither a local school administrative unit nor a school shall do any of the following:

- (1) Grant access to employees' physical or electronic mailboxes to an education employee association unless it gives such access to all education employee associations operating in the local school administrative unit.
- (2) Permit an education employee association to attend new teacher or employee orientations to recruit members unless it permits all education employee associations operating in the local school administrative unit to attend.
- (3) Give an education employee association preferential treatment through procedures, policies, or any other means. This subdivision does not authorize any payroll deduction for any association unless authorized by law for that association.

(4) Endorse one education employee association over another.

(5) Refer to days or breaks in a school calendar by the name of an employee education association.

(c) A school shall not discourage or prohibit an employee from joining an organization or showing preferences toward any educational association."

SECTION 1.(c) G.S. 115C-238.29F(e) is amended by adding a new subdivision to read:

"(5) Education employee associations shall have equal access to charter school employees as provided in G.S. 115C-335.9."

SECTION 2. This act is effective when it becomes law and applies beginning with the 2012-2013 school year.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 4:53 p.m. on the 12th day of July, 2012.

Session Law 2012-180

S.B. 133

AN ACT TO ELIMINATE OBSOLETE PROVISIONS FROM, AND MAKE CLARIFYING CHANGES TO, THE LAWS GOVERNING PREPARATION AND STORAGE OF JURY LISTS, AND TO EXEMPT PERSONS WHO HAVE BEEN LAWFULLY SUMMONED FOR JURY SERVICE FROM PAYING FERRY TOLLS TO TRAVEL TO AND FROM THEIR HOMES AND THE SITE OF THAT SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 9-2 reads as rewritten:

"§ 9-2. **Preparation of master jury list; sources of names.**

(a) It shall be the duty of the jury commission ~~on July 1 of~~ during every odd-numbered year to prepare a master list of prospective jurors qualified under this Chapter to serve in the biennium beginning on January 1 of the next year. Instead of providing a master list for an entire biennium, the commission may prepare a master list each year if the senior regular resident superior court judge requests in writing that it do so.

(b) In preparing the master list, the jury commission shall use the list of registered voters and persons with drivers license records supplied to the county by the Commissioner of Motor Vehicles pursuant to G.S. 20-43.4. ~~The commission shall remove from the list the names of those residents of the county who are recently deceased, which shall be supplied to the commission by the State Registrar under G.S. 130A-121(a).~~ The commission may use fewer than all the names from the list if it uses a random method of selection. The commission may use other sources of names deemed by it to be reliable.

(c),(d) Repealed by Session Laws 2003-226, s. 7(d), effective January 1, 2004.

(e) The jury commission shall merge the entire list of names of each source used and randomly select the desired number of names to form the jury-master list.

(f) The jury-master list shall contain not less than one and one-quarter times and not more than three times as many names as were drawn for jury duty in all courts in the county during the previous biennium, or, if an annual list is being prepared as requested under subsection (a) of this section the jury-master list shall contain not less than one and one-quarter times and not more than three times as many names as were drawn for jury duty in all courts in the county during the previous year but in no event shall the list include fewer than 500 names, except that in counties in which a different panel of jurors is selected for each day of the week, there is no limit to the number of names that may be placed on the jury-master list.

(g) Repealed by Session Laws 2003-226, s. 7(d), effective January 1, 2004.

(h) As used in this section "random" or "randomly" refers to a method of selection that results in each name on a list having an equal opportunity to be selected.

(i) To facilitate random selection of jurors, all the names on the master list may be sorted into random order before the first panel is drawn. Thereafter, names may be selected sequentially from the randomized list without further randomization, except as required by G.S. 15A-1214.

(j) The procedure for performing the preparation of the master list shall be in writing, adopted by the jury commission, and kept available for public inspection in the office of the clerk of court. The procedure must effectively preserve the authorized grounds for disqualification, the right of public access to the master list of prospective jurors as provided by G.S. 9-4, and the time sequence for drawing and summoning a jury panel.

(k) In counties utilizing electronic data processing equipment, the functions of preparing and maintaining custody of the master list of prospective jurors, the procedure for drawing and summoning panels of jurors, and the procedure for maintaining records of names of jurors who have served, been excused or disqualified, or whose service has been deferred may be performed by this equipment, except that decisions as to mental or physical competence of prospective jurors shall continue to be made by jury commissioners."

SECTION 2. G.S. 9-2.1 is repealed.

SECTION 3. G.S. 9-3 reads as rewritten:

"§ 9-3. Qualifications of prospective jurors.

All persons are qualified to serve as jurors and to be included on the master jury list who are citizens of the State and residents of the county, who have not served as jurors during the preceding two years, who are 18 years of age or over, who are physically and mentally competent, who can understand the English language, who have not been convicted of a felony or pleaded guilty or nolo contendere to an indictment charging a felony (or if convicted of a felony or having pleaded guilty or nolo contendere to an indictment charging a felony have had their citizenship restored pursuant to law), and who have not been adjudged non compos mentis. Persons not qualified under this section are subject to challenge for cause."

SECTION 4. G.S. 9-4 reads as rewritten:

"§ 9-4. Preparation and custody of alphabetized list; ~~list~~; access to list.

(a) As the master jury list is prepared, the name ~~and address~~ of each qualified person selected for the list shall be recorded and alphabetically ~~arranged, written on a separate card.~~ arranged. ~~The cards shall then be alphabetized and permanently numbered, the numbers running consecutively with a different number on each card. These cards shall constitute the jury list for the county.~~ The alphabetized list shall be maintained in filed with the office of the clerk of court, ~~register of deeds of the county,~~ together with a statement of the sources used and procedures followed in preparing the list. The alphabetized list shall be kept under lock and key, but shall be available for public inspection during regular office hours. The clerk of court may elect to store an electronic copy of the alphabetized jury list for the county.

(b) Public access to juror information shall be limited to the alphabetized list of the names. The addresses of prospective jurors are confidential and not subject to disclosure without an order of the court."

SECTION 5. G.S. 9-5 reads as rewritten:

"§ 9-5. Procedure for drawing panel of jurors; ~~jurors~~; ~~numbers drawn~~.

The board of county commissioners in each county shall provide the clerk of superior court with a ~~jury box, the construction and dimensions of which shall be prescribed by the administrative officer of the courts.~~ At least 30 days prior to January 1 of any year for which a list of prospective jurors has been prepared, a number of ~~dises, squares, counters or markers~~ equal to the number of names on the jury list shall be placed in the jury box. ~~The dises, squares, counters, or markers shall be uniform in size, weight, and appearance, and may be made of any suitable material. They shall be numbered consecutively to correspond with the numbers on the jury list. The jury box shall be of sufficient size to hold the dises, squares, counters or markers so that they may be easily shaken and mixed, and the box shall have a hinged lid through which the dises, squares, counters or markers can be drawn. The lid shall have a lock, the key to which shall be kept by the clerk of superior court.~~

At least 30 days prior to any session or sessions of superior or district court requiring a jury, the clerk of superior court or ~~his assistant or deputy clerk shall, in public, after thoroughly shaking the box, draw therefrom the number of discs, squares, counters, or markers shall prepare or have electronically prepared a randomized list of names from the master jury list equal to the number of jurors required for the session or sessions scheduled. The clerk of superior court may decrease the number of randomized names to account for the addition of names of previously selected jurors whose service has been deferred to this session.~~ For each week of a superior court session, the senior resident superior court judge for the district or set of districts as defined in G.S. 7A-41.1(a) in which the county is located shall specify the number of jurors to be drawn. For each week of a district court jury session, the chief district judge of the district court district in which the county is located shall specify the number of jurors to be drawn. Pooling of jurors between or among concurrent sessions of various courts is authorized in the discretion of the senior regular resident superior court judge. When pooling is utilized, the senior regular resident superior court judge, after consultation with the chief district judge when a district court jury is required, shall specify the total number of jurors to be drawn for such concurrent sessions. When grand jurors are needed, at least nine additional numbers ~~names~~ shall be drawn.

~~As the discs, squares, counters, or markers are drawn, they shall be separately stored by the clerk until a new jury list is prepared.~~

The clerk of superior court shall either (i) prepare and issue the summonses or (ii) deliver the printed summonses or the list of numbers drawn from the jury box to the register of deeds, who shall match the numbers received with the numbers on the jury list. The register of deeds shall within three days thereafter notify the sheriff to summon for jury duty the persons on the jury list whose numbers are thus matched. ~~names and addresses of jurors to the sheriff, who shall issue the summonses in accordance with the provisions of G.S. 9-10(a).~~ Jurors who serve each week shall be discharged at the close of the weekly session or sessions, unless actually engaged in the trial of a case, and then they shall not be discharged until their service in that case is completed."

SECTION 6. G.S. 9-6(e) reads as rewritten:

"(e) The judge shall inform the clerk of superior court of persons excused under this section, and the clerk ~~within 10 days shall so notify the register of deeds, who shall note the excuse on the juror's card and file it shall keep a record of excuses separate from the master separately from the jury list.~~"

SECTION 7. G.S. 9-6.1 reads as rewritten:

"§ 9-6.1. **Requests to be excused.**

(a) Any person summoned as a juror who is 72 years or older and who wishes to be excused, deferred, or exempted may make the request without appearing in person by filing a signed statement of the ground of the request with the chief district court judge of that district, or the district court judge or trial court administrator designated by the chief district court judge pursuant to G.S. 9-6(b), at ~~anytime~~ any time five business days before the date upon which the person is summoned to appear.

(b) Any person summoned as a juror who has a disability that could interfere with the person's ability to serve as a juror and who wishes to be excused, deferred, or exempted may make the request without appearing in person by filing a signed statement of the ground of the request, including a brief explanation of the disability that interferes with the person's ability to serve as a juror, with the chief district court judge of that district, or the district court judge or trial court administrator designated by the chief district court judge pursuant to G.S. 9-6(b), at any time five business days before the date upon which the person is summoned to appear. Upon request of the court, medical documentation of any disability may be submitted. Any privileged medical information or protected health information described in this section 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.

(c) A person may request either a temporary or permanent exemption under this section, and the judge or trial court administrator may accept or reject either in the exercise of discretion conferred by G.S. 9-6(b), including the substitution of a temporary exemption for a requested permanent exemption. In the case of supplemental jurors summoned under G.S. 9-11, notice may be given when summoned. In case the chief district court judge, or the judge or trial court administrator designated by the chief district court judge pursuant to G.S. 9-6(b), rejects the request for exemption, the prospective juror shall be immediately notified by the trial court administrator or the clerk of court by telephone, letter, or personally."

SECTION 8. G.S. 9-7 reads as rewritten:

"§ 9-7. Removal Notation on master jury list of names of jurors who have served;served from jury list; retention.

~~As persons are summoned for jury service, the cards upon which their names appear shall be withdrawn from the jury list and filed separately. The date for which each juror serves shall be noted on his card.~~

~~All cards removed from the jury list because of service, or having been excused from service, or because of disqualification, shall be retained for reference in compiling the next jury list. When the succeeding list has been prepared, the list of persons who have served shall be retained for a period of two years. The names of persons summoned for jury service and the date or dates on which each person served shall be noted on the master jury list. This information shall be retained for two years, and persons shall be exempt from jury service for a period of two years from the date on which they were discharged from their prior service."~~

SECTION 9. G.S. 9-10(a) reads as rewritten:

"§ 9-10. Summons to jurors.

(a) ~~The register of deeds clerk of court shall, within three days after the receipt of numbers drawn, shall serve the summons by first-class mail, or shall deliver either printed summonses or the list of the panel of prospective jurors to the sheriff of the county, who shall summon the persons named therein. The summons shall be served personally, or by leaving a copy thereof at the place of residence of the juror, or by telephone or first-class mail, at least 15 days before the session of court for which the juror is summoned. Service by telephone, or by first-class mail if mailed to the correct current address of the juror on or before the fifteenth day before the day the court convenes, shall be valid and binding on the person served, and he shall be bound to appear in the same manner as if personally served. The summons shall contain information as to the time, place, and authority before whom applications for excuses from jury service may be heard."~~

SECTION 10. Article 1 of Chapter 9 of the General Statutes is amended by adding a new section to read:

"§ 9-7.1. Trial court administrator may assist clerk with performance of duties.

Upon the request of the clerk of superior court and with the agreement of the clerk of superior court and the senior resident superior court judge, the duties and responsibilities of the clerk of superior court under this Article may be assigned to the trial court administrator pursuant to G.S. 7A-356."

SECTION 11. G.S. 9-11(a) reads as rewritten:

(a) If necessary, the court may, without using the jury list, order the sheriff to summon from day to day additional jurors to supplement the original venire. Jurors so summoned shall have the same qualifications and be subject to the same challenges as jurors selected for the regular jury list. If the presiding judge finds that service of summons by the sheriff is not suitable because of his direct or indirect interest in the action to be tried, the judge may appoint some suitable person in place of the sheriff to summon supplemental jurors. The clerk of superior court shall ~~furnish the register of deeds~~keep a record of the names of those additional jurors who are so summoned and who report for jury service."

SECTION 11.5. G.S. 20-43.4 reads as rewritten:

"§ 20-43.4. Current list of licensed drivers to be provided to jury commissions.

(a) The Commissioner of Motor Vehicles shall provide to each county jury commission an alphabetical list of all persons that the Commissioner has determined are residents of the county, who will be 18 years of age or older as of the first day of January of the following year, and licensed to drive a motor vehicle as of July 1 of each odd-numbered year, provided that if an annual master jury list is being prepared under G.S. 9-2(a), the list to be provided to the county jury commission shall be updated and provided annually.

(b) The list shall include those persons whose license to drive has been suspended, and those former licensees whose license has been canceled, except that the list shall not include the name of any formerly licensed driver whose license is expired and has not been renewed for eight years or more. The list shall contain the address and zip code of each driver, plus the driver's date of birth, sex, social security number, and drivers license number, and may be in either printed or computerized form, as requested by each county. Before providing the list to the county jury commission, the Commissioner shall have computer-matched the list with the voter registration list of the State Board of Elections to eliminate duplicates. The Commissioner shall also remove from the list the names of those residents of the county who are (i) issued a drivers license of limited duration under G.S. 20-7(s), (ii) issued a drivers license of regular duration under G.S. 20-7(f) and who hold a valid permanent resident card issued by the United States, or (iii) who are recently deceased, which names shall be supplied to the Commissioner by the State Registrar under G.S. 130A-121(b). The Commissioner shall include in the list provided to the county jury commission names of registered voters who do not have drivers licenses, and shall indicate the licensed or formerly licensed drivers who are also registered voters, the licensed or formerly licensed drivers who are not registered voters, and the registered voters who are not licensed or formerly licensed drivers.

(c) The list so provided shall be used solely for jury selection and election records purposes and no other. Information provided by the Commissioner to county jury commissions and the State Board of Elections under this section shall remain confidential, shall continue to be subject to the disclosure restriction provisions of G.S. 20-43.1, and shall not be a public record for purposes of Chapter 132 of the General Statutes."

SECTION 12. G.S. 130A-121(a) is repealed.

SECTION 13. G.S. 7A-312(a) reads as rewritten:

"(a) A juror in the General Court of Justice including a petit juror, or a coroner's juror, but excluding a grand juror, shall receive twelve dollars (\$12.00) for the first day of service and twenty dollars (\$20.00) per day afterwards, except that if any person serves as a juror for more than five days in any 24-month period, the juror shall receive forty dollars (\$40.00) per day for each day of service in excess of five days. A grand juror shall receive twenty dollars (\$20.00) per day. A juror required to remain overnight at the site of the trial shall be furnished adequate accommodations and subsistence. If required by the presiding judge to remain in a body during the trial of a case, meals shall be furnished the jurors during the period of sequestration. Jurors from out of the county summoned to sit on a special venire shall receive mileage at the same rate as State employees. Persons summoned as jurors shall be exempt during their period of service from paying a ferry toll required under G.S. 136-82 to travel to and from their homes and the site of that service."

SECTION 14. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 4:54 p.m. on the 12th day of July, 2012.

Session Law 2012-181

H.B. 1114

AN ACT PROVIDING THAT THE CITIES AND TOWNS THAT ARE MEMBERS OF THE NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY SHALL USE REVENUE DERIVED FROM RATES FOR ELECTRIC SERVICE FOR PAYING THE DIRECT AND INDIRECT COSTS OF OPERATING THE ELECTRIC SYSTEM, TRANSFERRING AMOUNTS THAT REPRESENT A RATE OF RETURN ON THE INVESTMENT IN THE ELECTRIC SYSTEM, AND MAKING DEBT SERVICE PAYMENTS, AND TO MAKE CLARIFYING CHANGES TO THE AMOUNT OF THE RETURN ON INVESTMENT TRANSFER.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2011-129 reads as rewritten:

~~"SECTION 2. This act only applies to the towns of Clayton, Selma, and Smithfield. This act applies only to the following cities and towns that are members of the North Carolina Eastern Municipal Power Agency: Apex, Ayden, Belhaven, Benson, Clayton, Edenton, Elizabeth City, Farmville, Fremont, Greenville, Hamilton, Hertford, Hobgood, Hookerton, Kinston, LaGrange, Laurinburg, Louisburg, Lumberton, New Bern, Pikeville, Red Springs, Robersonville, Rocky Mount, Scotland Neck, Selma, Smithfield, Southport, Tarboro, Wake Forest, Washington, and Wilson."~~

SECTION 2. G.S. 159B-39(c), as enacted by S.L. 2011-129, reads as rewritten:

"(c) The total amount transferred to other funds of the municipality authorized as a rate of return on the investment of the municipality in the electric system ~~shall not exceed the amount allowed in this subsection. The amount to be transferred~~ shall be calculated using amounts reported in the municipality's audited financial statements for the preceding fiscal year. The amount transferred may be less than the following, but in no event may the amount transferred exceed the greater of ~~shall not exceed either of the following:~~

- (1) Three percent (3%) of the gross capital assets of the electric system at the end of the preceding fiscal year.
- (2) Five percent (5%) of the gross annual revenues of the electric system for the preceding fiscal year."

SECTION 3. Section 1 of this act becomes effective July 1, 2014. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:56 p.m. on the 12th day of July, 2012.

Session Law 2012-182

S.B. 699

AN ACT TO CLARIFY THE NAME OF THE DIVISION OF CRIMINAL INFORMATION; TO ALLOW THE DIVISION OF CRIMINAL INFORMATION TO PROMULGATE RULES FOR USAGE OF THE CRIMINAL INFORMATION NETWORK; TO ALLOW THE DIVISION OF CRIMINAL INFORMATION TO ASSESS FEES FOR SETUP, ACCESS TO, AND USE OF THE CRIMINAL INFORMATION NETWORK; TO RECODIFY THE EXISTING SUPERIOR COURT DISTRICTS USING 2010 GEOGRAPHY; AND TO ALLOW SHARING OF CONFIDENTIAL INVESTIGATORY INFORMATION BETWEEN THE STATE ETHICS COMMISSION AND THE LEGISLATIVE ETHICS COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 114 of the General Statutes reads as rewritten:

"Article 3.

~~"Division of Criminal Statistics-Information.~~**"§ 114-10. Division of Criminal Statistics-Information.**

The Attorney General shall set up in the Department of Justice a division to be designated as the Division of Criminal ~~Statistics-Information~~. There shall be assigned to this Division by the Attorney General duties as follows:

- (1) To collect and correlate information in criminal law administration, including crimes committed, arrests made, dispositions on preliminary hearings, prosecutions, convictions, acquittals, punishment, appeals, together with the age, race, and sex of the offender, the necessary data to make a trace regarding all firearms seized, forfeited, found, or otherwise coming into the possession of any State or local law enforcement agency of the State that are believed to have been used in the commission of a crime, and such other information concerning crime and criminals as may appear significant or helpful. To correlate such information with the operations of agencies and institutions charged with the supervision of offenders on probation, in penal and correctional institutions, on parole and pardon, so as to show the volume, variety and tendencies of crime and criminals and the workings of successive links in the machinery set up for the administration of the criminal law in connection with the arrests, trial, punishment, probation, prison parole and pardon of all criminals in North Carolina.
- (2) To collect, correlate, and maintain access to information that will assist in the performance of duties required in the administration of criminal justice throughout the State. This information may include, but is not limited to, motor vehicle registration, drivers' licenses, wanted and missing persons, stolen property, warrants, stolen vehicles, firearms registration, sexual offender registration as provided under Article 27A of Chapter 14 of the General Statutes, drugs, drug users and parole and probation histories. In performing this function, the Division may arrange to use information available in other agencies and units of State, local and federal government, but shall provide security measures to insure that such information shall be made available only to those whose duties, relating to the administration of justice, require such information.
- (2a) Recodified as G.S. 114-10.1 by Session Laws 2002-159, s. 18(a).
- (3) To make scientific study, analysis and comparison from the information so collected and correlated with similar information gathered by federal agencies, and to provide the Governor and the General Assembly with the information so collected biennially, or more often if required by the Governor.
- (4) To perform all the duties heretofore imposed by law upon the Attorney General with respect to criminal statistics.
- (5) To perform such other duties as may be from time to time prescribed by the Attorney General.
- (6) To promulgate rules and regulations for the administration of this Article.

"§ 114-10.01. Collection of traffic law enforcement statistics.

(a) In addition to the duties set forth in G.S. 114-10, the Division of Criminal ~~Statistics-Information~~ shall collect, correlate, and maintain the following information regarding traffic law enforcement by law enforcement officers:

- (1) The number of drivers stopped for routine traffic enforcement by law enforcement officers, the officer making each stop, the date each stop was made, the agency of the officer making each stop, and whether or not a citation or warning was issued.

- (2) Identifying characteristics of the drivers stopped, including the race or ethnicity, approximate age, and sex.
 - (3) The alleged traffic violation that led to the stop.
 - (4) Whether a search was instituted as a result of the stop.
 - (5) Whether the vehicle, personal effects, driver, or passenger or passengers were searched, and the race or ethnicity, approximate age, and sex of each person searched.
 - (6) Whether the search was conducted pursuant to consent, probable cause, or reasonable suspicion to suspect a crime, including the basis for the request for consent, or the circumstances establishing probable cause or reasonable suspicion.
 - (7) Whether any contraband was found and the type and amount of any such contraband.
 - (8) Whether any written citation or any oral or written warning was issued as a result of the stop.
 - (9) Whether an arrest was made as a result of either the stop or the search.
 - (10) Whether any property was seized, with a description of that property.
 - (11) Whether the officers making the stop encountered any physical resistance from the driver or passenger or passengers.
 - (12) Whether the officers making the stop engaged in the use of force against the driver, passenger, or passengers for any reason.
 - (13) Whether any injuries resulted from the stop.
 - (14) Whether the circumstances surrounding the stop were the subject of any investigation, and the results of that investigation.
 - (15) The geographic location of the stop; if the officer making the stop is a member of the State Highway Patrol, the location shall be the Highway Patrol District in which the stop was made; for all other law enforcement officers, the location shall be the city or county in which the stop was made.
- (b) For purposes of this section, "law enforcement officer" means any of the following:
- (1) All State law enforcement officers.
 - (2) Law enforcement officers employed by county sheriffs or county police departments.
 - (3) Law enforcement officers employed by police departments in municipalities with a population of 10,000 or more persons.
 - (4) Law enforcement officers employed by police departments in municipalities employing five or more full-time sworn officers for every 1,000 in population, as calculated by the Division for the calendar year in which the stop was made.

(c) The information required by this section need not be collected in connection with impaired driving checks under G.S. 20-16.3A or other types of roadblocks, vehicle checks, or checkpoints that are consistent with the laws of this State and with the State and federal constitutions, except when those stops result in a warning, search, seizure, arrest, or any of the other activity described in subdivisions (4) through (14) of subsection (a) of this section.

(d) Each law enforcement officer making a stop covered by subdivision (1) of subsection (a) of this section shall be assigned an anonymous identification number by the officer's employing agency. The anonymous identifying number shall be public record and shall be reported to the Division to be correlated along with the data collected under subsection (a) of this section. The correlation between the identification numbers and the names of the officers shall not be a public record, and shall not be disclosed by the agency except when required by order of a court of competent jurisdiction to resolve a claim or defense properly before the court.

(d1) Any agency subject to the requirements of this section shall submit information collected under subsection (a) of this section to the Division within 60 days of the close of each month. Any agency that does not submit the information as required by this subsection shall be ineligible to receive any law enforcement grants available by or through the State until the information which is reasonably available is submitted.

(e) The Division shall publish and distribute by December 1 of each year a list indicating the law enforcement officers that will be subject to the provisions of this section during the calendar year commencing on the following January 1.

"§ 114-10.02. Collection of statistics on the use of deadly force by law enforcement officers.

(a) In addition to the duties set forth in G.S. 114-10, the Division of Criminal ~~Statistics~~ Information shall collect, maintain, and annually publish the number of deaths, by law enforcement agency, resulting from the use of deadly force by law enforcement officers in the course and scope of their official duties.

(b) For purposes of this section, "law enforcement officer" means sworn law enforcement officers with the power of arrest, both State and local.

"§ 114-10.1. Police Information Network.

(a) The Division of Criminal ~~Statistics-Information~~ Information is authorized to establish, devise, maintain and ~~operate, under the control and supervision of the Attorney General,~~ operate a system for receiving and disseminating to participating agencies information collected, maintained and correlated under authority of G.S. 114-10 of this Article. The system shall be known as the ~~Police~~ Police-Division of Criminal Information Network.

(b) The ~~Attorney General~~ Division of Criminal Information is authorized to cooperate with the Division of Motor Vehicles, Department of Administration, Department of Correction and other State, local and federal agencies and organizations in carrying out the purpose and intent of this section, and to utilize, in cooperation with other State agencies and to the extent as may be practical, computers and related equipment as may be operated by other State agencies.

(c) The ~~Attorney General~~ Division of Criminal Information, after consultation with participating agencies, shall adopt rules and regulations governing the organization and administration of the ~~Police~~ Police-Division of Criminal Information Network, including rules and regulations governing the types of information relating to the administration of criminal justice to be entered into the system, and who shall have access to such information. The rules and regulations governing access to the ~~Police~~ Police-Division of Criminal Information Network shall not prohibit an attorney who has entered a criminal proceeding in accordance with G.S. 15A-141 from obtaining information relevant to that criminal proceeding. The rules and regulations governing access to the ~~Police~~ Police-Division of Criminal Information Network shall not prohibit an attorney who represents a person in adjudicatory or dispositional proceedings for an infraction from obtaining the person's driving record or criminal history.

(d) The ~~Attorney General~~ Division of Criminal Information may impose an initial set up fee of two thousand six hundred fifty dollars (\$2,650) for agencies to participate in the ~~Police~~ Police-Division of Criminal Information Network. This one-time fee shall be used to offset the cost of the router and data circuit needed to access the Network.

The ~~Attorney General~~ Division of Criminal Information may also impose monthly fees on participating agencies. The monthly fees collected under this subsection shall be used to offset the cost of operating and maintaining the Police Information Network

- (1) The ~~Attorney General~~ Division of Criminal Information may impose a monthly circuit fee on agencies that access the ~~Police~~ Police-Division of Criminal Information Network through a circuit maintained and operated by the Department of Justice. The amount of the monthly fee is three hundred dollars (\$300.00) plus an additional fee amount for each device linked to the Network. The additional fee amount varies depending upon the type of device. For a desktop device after the first seven desktop devices, the additional monthly fee is twenty-five dollars (\$25.00) per device. For a

mobile device, the additional monthly fee is twelve dollars (\$12.00) per device.

- (2) The ~~Attorney General Division of Criminal Information~~ may impose a monthly device fee on agencies that access the Police Information Network through some other approved means. The amount of the monthly device fee varies depending upon the type of device. For a desktop device, the monthly fee is twenty-five dollars (\$25.00) per device. For a mobile device, the fee is twelve dollars (\$12.00) per device."

SECTION 2.(a) G.S. 7A-41(b) reads as rewritten:

"(b) For superior court districts of less than a whole county, or with part of one county with part of another, the composition of the district and the number of judges is as follows:

- (1) ~~Superior Court District 7B consists of County Commissioner Districts 1, 2, and 3 of Wilson County, Blocks 127 and 128 of Census Tract 6 of Wilson County, and Townships 12 and 14 of Edgecombe County. It has one judge.~~

- (2) ~~Superior Court District 7C consists of the remainder of Edgecombe and Wilson Counties not in Judicial District 7B. It has one judge.~~

- (1) District 5A: New Hanover County: VTD: CF01, VTD: CF02, VTD: H01, VTD: H04, VTD: H06, VTD: H07: Block(s) 1290116072000, 1290116072001, 1290116072002, 1290116072003, 1290116072004, 1290116072005, 1290116072006, 1290116072007, 1290116072008, 1290116072009, 1290116072010, 1290116072011, 1290116072012, 1290116072013, 1290116072014, 1290116072015, 1290116072016, 1290116072017, 1290116072018, 1290116072019, 1290116072020, 1290116072021, 1290116072022, 1290116073000, 1290116073001, 1290116073002, 1290116073003, 1290116073004, 1290116073005, 1290116073006, 1290116073007, 1290116073008, 1290116073009, 1290116073010, 1290116073012, 1290116073013, 1290116073014, 1290116073016, 1290116073017, 1290116073018, 1290116073019, 1290116073020, 1290116073021, 1290116073022, 1290116073023, 1290116073024, 1290116073025, 1290116073026, 1290116073027, 1290116073028, 1290116073029, 1290116073030, 1290116073031, 1290116073032, 1290116073033, 1290116073034, 1290116073035, 1290116073036, 1290116073037, 1290116073038, 1290116073039, 1290116073040, 1290116073041, 1290116073042, 1290116073043, 1290116073044, 1290116073045, 1290116073046, 1290116073047, 1290116073048, 1290116073049, 1290116073050, 1290116081021, 1290116081022, 1290116081023, 1290116081024, 1290116081025, 1290116081026, 1290116081027, 1290116081028, 1290116081029, 1290116081030, 1290116081031, 1290116081032, 1290116081033, 1290116081034, 1290116081035, 1290116081036, 1290116081037, 1290116081038, 1290116081039, 1290116081040, 1290116081041, 1290116081042, 1290116081049; VTD: W03, VTD: W08, VTD: W15, VTD: W25, VTD: W26, VTD: W27, VTD: W29; Pender County: VTD: CL05, VTD: CS04, VTD: CT03, VTD: GR06, VTD: UH08, VTD: UU17. It has one judge.

- (2) District 5B: New Hanover County: VTD: CF03, VTD: H02, VTD: H03: Block(s) 1290119024001, 1290119024002, 1290119024003, 1290119024005, 1290119024008, 1290119024009, 1290119024010, 1290119035012, 1290119035013, 1290119035016, 1290119042006, 1290119042007, 1290119042008, 1290119042009, 1290119042010, 1290119042011, 1290119042012, 1290119042013, 1290119042014, 1290119042015, 1290119042016, 1290119042017, 1290119042018, 1290119042019, 1290119042020, 1290119042021, 1290119042022,

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- (3) District 5C: New Hanover County: VTD: FP01, VTD: FP02, VTD: FP03, VTD: FP04, VTD: FP05, VTD: H03: Block(s) 1290118001000, 1290119023000, 1290119023001, 1290119023002, 1290119023003, 1290119023004, 1290119023005, 1290119023006, 1290119023019, 1290119023020, 1290119023023, 1290119023024, 1290119023025, 1290119023026, 1290119023027, 1290119023028, 1290119023029, 1290119023030, 1290119023031, 1290119023032, 1290119023033, 1290119023034, 1290119023035, 1290119023036, 1290119024000, 1290119024006, 1290119024007, 1290120012000, 1290120012001, 1290120012002, 1290120012003, 1290120012004, 1290120012005, 1290120012006, 1290120012007, 1290120012008, 1290120012009, 1290120012010, 1290120012011, 1290120012012, 1290120012013, 1290120012014, 1290120012015, 1290120012016, 1290120012017, 1290120012018, 1290120012019, 1290120012020, 1290120012021, 1290120012022, 1290120012023, 1290120012034, 1290120012035, 1290120012036, 1290120012037, 1290120013017, 1290120013018, 1290120013019, 1290120013020, 1290120013021, 1290120013022, 1290120013023, 1290120013024, 1290120013025, 1290120013026, 1290120013027, 1290120013028, 1290120013029, 1290120013030, 1290120013031, 1290120013032, 1290120013033, 1290120013034, 1290120013035, 1290120013036, 1290120013037, 1290120013038, 1290120013039, 1290120014000, 1290120014001, 1290120014002, 1290120014003, 1290120014004, 1290120014005, 1290120014013, 1290120014014, 1290120014015, 1290120014016, 1290120014017, 1290120014018, 1290120014019, 1290120014020, 1290120014021, 1290120014022, 1290120014023, 1290120014024; VTD: M02, VTD: M03, VTD: M04, VTD: M05, VTD: W16, VTD: W17, VTD: W18, VTD: W21, VTD: W30, VTD: W31: Block(s) 1290105023010, 1290105023020, 1290105023021, 1290105023022, 1290105023023, 1290105023024, 1290105023025, 1290105023026, 1290105023027, 1290105023028, 1290105023029, 1290105023030, 1290105023031, 1290105023032, 1290105023033, 1290105023034, 1290105023035, 1290105024024, 1290105024025, 1290105024026, 1290105024032, 1290105024033, 1290105024034, 1290105024035, 1290106003000, 1290106003001, 1290106003002, 1290106003003, 1290106003004, 1290106003005, 1290106003006, 1290106003007, 1290106003008, 1290106003009, 1290106003010, 1290106003011, 1290106003012, 1290106003013, 1290106003014, 1290106003015, 1290106003016, 1290106003017, 1290106003018, 1290106003019, 1290106003020, 1290106003021, 1290106003022, 1290106003023, 1290106003024, 1290106003025, 1290106003026, 1290106003027, 1290106003028, 1290106003029, 1290106003030, 1290106003031, 1290106003032, 1290106003033, 1290106003034, 1290106003035, 1290106003036, 1290106003037, 1290106003038, 1290106003039, 1290106003040, 1290106003041, 1290106003042, 1290106003043, 1290106003044, 1290106003045, 1290106003046, 1290106003047, 1290106003048, 1290106003049, 1290106003050, 1290106003051, 1290106003052, 1290106003053, 1290106003054, 1290106003055, 1290106003056. It has one judge.
- (4) District 7B: Edgecombe County: VTD: 1101: Block(s) 0650213001035; VTD: 1201, VTD: 1202, VTD: 1203, VTD: 1204, VTD: 1205: Block(s) 0650203001005, 0650203001006, 0650203001007, 0650203001008,

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It has one judge.

- (5) District 7C: Edgecombe County: VTD: 0101, VTD: 0102, VTD: 0103,
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~~(3)~~(6) Superior Court District 10A consists of Wake County Precincts: VTD: 01-01, VTD: 01-02, VTD: 01-06, VTD: 01-07, VTD: 01-14, VTD: 01-16, VTD: 01-23, VTD: 01-29, VTD: 01-31, VTD: 01-32, VTD: 01-33, VTD: 01-41, VTD: 01-48, VTD: 01-49, VTD: 04-01, VTD: 04-02, VTD: 04-03, VTD: 04-04, VTD: 04-06, VTD: 04-07, VTD: 04-10, VTD: 04-11, VTD: 04-12, VTD: 04-13, VTD: 04-14, VTD: 04-15, VTD: 04-16, VTD: 04-19, VTD: 04-20, VTD: 04-21, VTD: 11-02, VTD: 18-01, VTD: 18-04, VTD: 18-06, VTD: 18-08. It has one judge.

~~(4)~~(7) Superior Court District 10B consists of Wake County Precincts: VTD: 01-12, VTD: 01-13, VTD: 01-18, VTD: 01-19, VTD: 01-20, VTD: 01-21, VTD: 01-22, VTD: 01-25, VTD: 01-26, VTD: 01-27, VTD: 01-34, VTD: 01-35, VTD: 01-38, VTD: 01-40, VTD: 01-46, VTD: 01-50, VTD: 13-01: Block(s) 1830527043000, 1830527043023, 1830527043024, 1830540081000, 1830540081001, 1830540081002, 1830540081003, 1830540081004, 1830540081005, 1830540081006, 1830540081007, 1830540081008, 1830540081009, 1830540081010, 1830540081011, 1830540081012, 1830540081013, 1830540081014, 1830540081015, 1830540082000, 1830540082001, 1830540082002, 1830540082003, 1830540082004, 1830540082005, 1830540082006, 1830540082007, 1830540082008, 1830540082009, 1830540082010, 1830540082011, 1830540082012, 1830540082013, 1830540082014, 1830540082015, 1830540082016, 1830540083000, 1830540083001, 1830540083002, 1830540083003, 1830540083004, 1830540083005, 1830540083006, 1830540083007, 1830540083008, 1830540083009, 1830540084000, 1830540084001, 1830540084002, 1830540181012, 1830540181013, 1830540181014, 1830540181015, 1830540181016, 1830540181017, 1830540181018, 1830540181027, 1830540181033, 1830540181034, 1830541041022, 1830541041023, 1830541041024, 1830541041025, 1830541041026, 1830541041028, 1830541041030, 1830541041031, 1830541041032, 1830541041033, 1830541041039, 1830541041040, 1830541041041, 1830541041042, 1830541041043, 1830541041044, 1830541041045, 1830541041046, 1830541041047, 1830541041048, 1830541041049, 1830541041050, 1830541042000, 1830541042002, 1830541042010, 1830541042023, 1830541042024, 1830541042025,

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- ~~(5)~~(8) Superior Court District 10C consists of Wake County Precincts: VTD: 02-01, VTD: 02-02, VTD: 02-03, VTD: 02-04, VTD: 02-05, VTD: 02-06, VTD: 07-02, VTD: 07-06, VTD: 07-07, VTD: 07-11, VTD: 07-12, VTD: 08-02, VTD: 08-03, VTD: 08-04, VTD: 08-05, VTD: 08-06, VTD: 08-07, VTD: 08-08, VTD: 08-09, VTD: 08-10, VTD: 08-11, VTD: 13-10, VTD: 13-11, VTD: 14-01, VTD: 14-02, VTD: 19-03, VTD: 19-04, VTD: 19-05, VTD: 19-06, VTD: 19-07, VTD: 19-09, VTD: 19-10, VTD: 19-11, VTD: 19-12. It has one judge.
- ~~(6)~~(9) Superior Court District 10D consists of Wake County Precincts: VTD: 01-03, VTD: 01-04, VTD: 01-05, VTD: 01-09, VTD: 01-10, VTD: 01-11, VTD: 01-15, VTD: 01-17, VTD: 01-30, VTD: 01-36, VTD: 01-37, VTD: 01-39, VTD: 01-43, VTD: 01-45, VTD: 01-51, VTD: 04-05, VTD: 04-08, VTD: 04-09, VTD: 04-17, VTD: 04-18, VTD: 05-01, VTD: 05-03, VTD: 05-04, VTD: 05-05, VTD: 05-06, VTD: 07-01, VTD: 07-03, VTD: 07-04, VTD: 07-05, VTD: 07-09, VTD: 07-10, VTD: 07-13, VTD: 11-01, VTD: 20-02, VTD: 20-04, VTD: 20-10. It has one judge.
- ~~(6a)~~(10) Superior Court District 10E consists of Wake County Precincts: VTD: 01-28, VTD: 01-42, VTD: 01-44, VTD: 01-47, VTD: 09-01, VTD: 09-02, VTD: 09-03, VTD: 10-01, VTD: 10-02, VTD: 10-03, VTD: 10-04, VTD: 13-01: Block(s) 1830541041000, 1830541041001, 1830541041002, 1830541041003, 1830541041004, 1830541041005, 1830541041006, 1830541041007, 1830541041008, 1830541041009, 1830541041010, 1830541041011, 1830541041012, 1830541041013, 1830541041014, 1830541041015, 1830541041016, 1830541041017, 1830541041018, 1830541041019, 1830541041020, 1830541041021, 1830541042028; VTD: 13-02, VTD: 13-06, VTD: 13-08, VTD: 13-09, VTD: 15-01, VTD: 15-03, VTD: 15-04, VTD: 16-01, VTD: 16-04, VTD: 16-05, VTD: 16-07, VTD: 16-09, VTD: 17-01, VTD: 17-02, VTD: 17-03, VTD: 17-04, VTD: 17-05, VTD: 19-16, VTD: 19-17. It has one judge.
- ~~(6b)~~(11) Superior Court District 10F consists of Wake County Precincts: VTD: 03-00, VTD: 06-01, VTD: 06-04, VTD: 06-05, VTD: 06-06, VTD: 06-07, VTD: 12-01, VTD: 12-02, VTD: 12-04, VTD: 12-05, VTD: 12-06, VTD: 12-07, VTD: 12-08, VTD: 12-09, VTD: 15-02, VTD: 18-02, VTD: 18-03, VTD: 18-05, VTD: 18-07, VTD: 20-01, VTD: 20-03, VTD: 20-05, VTD: 20-06, VTD: 20-08, VTD: 20-09, VTD: 20-11, VTD: 20-12. It has one judge.
- ~~(7)~~ Superior Court District 12A consists of that part of Cross Creek Precinct #18 north of Raeford Road, Montclair Precinct, that part of Precinct 71-1 not in Judicial District 12B, Precinct 71-2, Morganton #2 Precinct, Cottonade Precinct, Cumberland Precincts 1 and 2, and Brentwood Precinct. It has one judge.
- ~~(8)~~ Superior Court District 12B consists of all of State House of Representatives District 17, except for Westarea Precinct, and it also includes that part of Cross Creek Precinct #15 east of Village Drive. It has one judge.
- ~~(9)~~ Superior Court District 12C consists of the remainder of Cumberland County not in Superior Court Districts 12A or 12B. It has two judges.

- (10) ~~Superior Court District 14A consists of Durham Precincts 9, 11, 12, 13, 14, 15, 18, 34, 40, 41, and 42, and that part of Durham Precinct 39 east of North Carolina Highway #751. It has one judge.~~
- (10a) ~~Effective with the 2004 election, in addition to the boundaries provided for in this section, Superior Court District 14A also includes that portion of Durham Precinct 53 east of North Carolina Highway #751.~~
- (11) ~~Superior Court District 14B consists of the remainder of Durham County not in Superior Court District 14A. It has three judges.~~
- (12) ~~Superior Court District 18A consists of Fentress Precincts 1 and 2; Greensboro Precincts 4, 5, 6, 46, 52, 67, 68, 69, 70, 71, 72, 73, 74, and 75; North Clay Precinct; Pleasant Garden Precincts 1 and 2; and South Clay Precinct. It has one judge.~~
- (13) ~~Superior Court District 18B consists of High Point Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27; HP Precinct; Jamestown Precincts 1 and 5; North Deep River Precinct; and South Deep River Precinct. It has one judge.~~
- (14) ~~Superior Court District 18C consists of Center Grove Precincts 1, 2, and 3; Friendship Precincts 1, 2, 3, 4, and 5; Greensboro Precincts 17, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40A, 40B, 41, 42, 43, 64, 65, and 66; Jamestown Precincts 2, 3, and 4; Monroe Precinct 3; North Center Grove Precinct; Oak Ridge Precincts 1 and 2; Summerfield Precincts 1, 2, 3, and 4; and Stokesdale Precinct. It has one judge.~~
- (15) ~~Superior Court District 18D consists of Greensboro Precincts 1, 11, 12, 13, 14, 15, 16, 19, 35, 44, 45, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, and 63; and Sumner Precincts 1, 2, 3, and 4. It has one judge.~~
- (16) ~~Superior Court District 18E consists of Gibsonville Precinct; Greene Precinct; Greensboro Precincts 2, 3, 7, 8, 9, 10, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; Jefferson Precincts 1, 2, 3, and 4; Monroe Precincts 1 and 2; North Madison Precinct; North Washington Precinct; Rock Creek Precincts 1 and 2; South Madison Precinct; and South Washington Precinct. It has one judge.~~
- (17) ~~Superior Court District 21A consists of Forsyth County Precincts 051, 052, 053, 054, 055, 071, 072, 073, 074, 075, 091, 092, 122, 123, 131, 132, 133, 701, 702, 703, 704, 705, 706, 707, 708, 709, 806, 807, and 808. It has one judge.~~
- (18) ~~Superior Court District 21B consists of Forsyth County Precincts 042, 043, 501, 502, 503, 504, 505, 506, 507, 601, 602, 603, 604, 605, 606, 607, 901, 902, 903, 904, 905, and 907. It has one judge.~~
- (19) ~~Superior Court District 21C consists of Forsyth County Precincts 011, 012, 013, 014, 015, 021, 031, 032, 033, 034, 061, 062, 063, 064, 065, 066, 067, 068, 101, 111, 112, 801, 802, 803, 804, 805, 809, 906, 908, and 909. It has one judge.~~
- (20) ~~Superior Court District 21D consists of Forsyth County Precincts 081, 082, 083, 201, 203, 204, 205, 206, 207, 301, 302, 303, 304, 305, 306, 401, 402, 403, 404, and 405. It has one judge.~~
- (21) ~~Superior Court District 26A consists of Charlotte Precincts 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 31, 33, 39, 41, 42, 46, 52, 54, 55, 56, 58, 60, 77, 78, and 82, and Long Creek Precinct #2 of Mecklenburg County. It has two judges.~~
- (22) ~~Superior Court District 26B consists of Charlotte Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 17, 18, 20, 21, 28, 29, 30, 32, 34, 35, 36, 37, 38, 43, 44, 45, 47, 51, 61, 62, 63, 65, 66, 67, 68, 69, 71, 74, 83, 84, and 86, Crab Orchard Precincts 1 and 2, and Mallard Creek Precinct 1. It has two judges.~~

- (23) ~~Superior Court District 26C consists of the remainder of Mecklenburg County not in Superior Court Districts 26A or 26B. It has two judges.~~
- (24), (25) ~~Repealed by Session Laws 2003-284, s. 13.14.(b), effective July 1, 2003.~~
- (26) ~~Superior Court District 5A consists of the New Hanover County precincts of Cape Fear #1, Cape Fear #2, Harnett #1, Harnett #4, Harnett #6, Wilmington #1, Wilmington #2, Wilmington #3, Wilmington #4, Wilmington #6, Wilmington #7, Wilmington #8, Wilmington #9, Wilmington #10, Wilmington #15, Wilmington #19, and the part of Harnett #7 that consists of the part of Block Group 6 of 1990 Census Tract 0116.02 containing Blocks 601B, 602B, 603, 611, 612, 613, 614, 615, 616, 617, 618, 619; and the Pender County precincts of Canetuck, Caswell, Columbia, Grady, Upper Holly, and Upper Union. It has one judge.~~
- (27) ~~Superior Court District 5B consists of the New Hanover County precincts of Cape Fear #3, Harnett #2, Harnett #5, the part of Harnett #7 that is not in Superior Court District 5A, Harnett #8, Wrightsville Beach, Wilmington #11, Wilmington #12, Wilmington #13, Wilmington #22, Wilmington #24, and the part of Harnett #3 that consists of the part of Block Group 1 of 1990 Census Tract 0119.01 containing Blocks 102, 105, 106A, 106B, 107A, 107B, 107C, 107D, and 108, the part of Block Group 1 of 1990 Census Tract 0119.02 containing Blocks 103, 104, and 114, and the part of Block Group 1 of 1990 Census Tract 0120.01 containing Blocks 101A, 101B, 101C, 101D, 102A, 102B, 103, 104, 105A, 105B, 115A, and 115B; and the following precincts of Pender County: North Burgaw, South Burgaw, Middle Holly, Long Creek, Penderlea, Lower Union, Rocky Point, Lower Topsail, Upper Topsail, Scotts Hill, and Surf City. It has one judge.~~
- (28) ~~Superior Court District 5C consists of the part of New Hanover County that is not in Superior Court Districts 5A or 5B. It has one judge.~~
- (12) District 12A: Cumberland County: VTD: AH49, VTD: CC18: Block(s) 0510007011012, 0510007011013, 0510007011014, 0510007011015, 0510007011016, 0510007011021, 0510007011034, 0510007011035, 0510007013011, 0510007013012, 0510007013013, 0510007013014, 0510007013015, 0510007013016, 0510007013017, 0510007013018, 0510007013019, 0510007013020, 0510007013021, 0510007013022, 0510007013023, 0510007013024, 0510007013025, 0510007013026, 0510007013027, 0510007013028, 0510007013029, 0510007013030, 0510007013031, 0510007013032, 0510007022007, 0510007022008; VTD: CC24: 0510020011058, 0510020021002, 0510033022004; VTD: CC25, VTD: CC27, VTD: CC29, VTD: CC31, VTD: CC32, VTD: CC33, VTD: CC34, VTD: CU02, VTD: G10: Block(s) 0510016011001, 0510016011002, 0510016011004, 0510016011005, 0510016011006, 0510016011007, 0510016011009, 0510016011010, 0510016011011, 0510016011012, 0510016011013, 0510016011014, 0510016011015, 0510016011016, 0510016011017, 0510016011018, 0510016011019, 0510016011020, 0510016011021, 0510016011022, 0510016011023, 0510016011024, 0510016011025, 0510016011026, 0510016011027, 0510016011032, 0510016011041, 0510016012041, 0510031021000, 0510031021001, 0510031021002, 0510031021003, 0510031021004, 0510031021005, 0510031021006, 0510031021007, 0510031021008, 0510031021009, 0510031021010, 0510031021011, 0510031021012, 0510031021013, 0510031021014, 0510031021015, 0510031021016, 0510031021017, 0510031021018, 0510031021019, 0510031021020, 0510031021021, 0510031021022, 0510031021023, 0510031021024, 0510031021025,

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- (15) District 14A: Durham County: VTD: 09, VTD: 12, VTD: 13, VTD: 14,
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VTD: 42, VTD: 48, VTD: 53-1, VTD: 54, VTD: 55. It has one judge.
- (16) District 14B: Durham County: VTD: 01, VTD: 02, VTD: 03, VTD: 04,
VTD: 05, VTD: 06, VTD: 07, VTD: 08, VTD: 10, VTD: 16, VTD: 17,
VTD: 19, VTD: 20, VTD: 21, VTD: 22, VTD: 23, VTD: 24, VTD: 25,
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44, VTD: 45, VTD: 46, VTD: 47, VTD: 50, VTD: 51, VTD: 52, VTD: 53-2.
It has three judges.

(17) District 18A: Guilford County: VTD: FEN1, VTD: FEN2, VTD: G04, VTD: G05, VTD: G06, VTD: G46, VTD: G52, VTD: G67, VTD: G68, VTD: G69, VTD: G70, VTD: G71, VTD: G72, VTD: G73, VTD: G74, VTD: G75, VTD: NCLAY1, VTD: NCLAY2, VTD: PG1, VTD: PG2, VTD: SCLAY. It has one judge.

(18) District 18B: Guilford County: VTD: H01, VTD: H02, VTD: H03, VTD: H04, VTD: H05, VTD: H06, VTD: H07, VTD: H08, VTD: H09, VTD: H10, VTD: H11, VTD: H12, VTD: H13, VTD: H14, VTD: H15, VTD: H16, VTD: H17, VTD: H18, VTD: H19A, VTD: H19B, VTD: H20A, VTD: H20B, VTD: H21, VTD: H22, VTD: H23, VTD: H24, VTD: H25, VTD: H26, VTD: H27, VTD: HP, VTD: JAM1, VTD: JAM5, VTD: NDRI, VTD: SDRI. It has one judge.

- (19) District 18C: Guilford County: VTD: CG1, VTD: CG2, VTD: CG3A, VTD: CG3B, VTD: FR1, VTD: FR2, VTD: FR3, VTD: FR4, VTD: FR5, VTD: G17, VTD: G30, VTD: G31, VTD: G32, VTD: G33, VTD: G34, VTD: G36, VTD: G37, VTD: G38, VTD: G39, VTD: G40A1, VTD: G40A2, VTD: G40B, VTD: G41, VTD: G42, VTD: G43, VTD: G64, VTD: G65, VTD: G66, VTD: JAM2, VTD: JAM3, VTD: JAM4, VTD: MON3, VTD: NCGR1, VTD: NCGR2, VTD: OR1, VTD: OR2, VTD: SF1, VTD: SF2, VTD: SF3, VTD: SF4, VTD: STOK. It has one judge.
- (20) District 18D: Guilford County: VTD: G01, VTD: G11, VTD: G12, VTD: G13, VTD: G14, VTD: G15, VTD: G16, VTD: G19, VTD: G35, VTD: G44, VTD: G45, VTD: G47, VTD: G48, VTD: G49, VTD: G50, VTD: G51, VTD: G53, VTD: G54, VTD: G55, VTD: G56, VTD: G57, VTD: G58, VTD: G59, VTD: G60, VTD: G61, VTD: G62, VTD: G63, VTD: SUM1, VTD: SUM2, VTD: SUM3, VTD: SUM4. It has one judge.
- (21) District 18E: Guilford County: VTD: G02, VTD: G03, VTD: G07, VTD: G08, VTD: G09, VTD: G10, VTD: G18, VTD: G20, VTD: G21, VTD: G22, VTD: G23, VTD: G24, VTD: G25, VTD: G26, VTD: G27, VTD: G28, VTD: G29, VTD: GIB, VTD: GR, VTD: JEF1, VTD: JEF2, VTD: JEF3, VTD: JEF4, VTD: MON1, VTD: MON2, VTD: NMAD, VTD: NWASH, VTD: RC1, VTD: RC2, VTD: SMAD, VTD: SWASH. It has one judge.
- (22) District 21A: Forsyth County: VTD: 051, VTD: 052, VTD: 053, VTD: 054, VTD: 055, VTD: 071, VTD: 072, VTD: 073, VTD: 074, VTD: 075, VTD: 091, VTD: 092, VTD: 122, VTD: 123, VTD: 131, VTD: 132, VTD: 133, VTD: 701, VTD: 702, VTD: 703, VTD: 704, VTD: 705, VTD: 706, VTD: 707, VTD: 708, VTD: 709, VTD: 806, VTD: 807, VTD: 808. It has one judge.
- (23) District 21B: Forsyth County: VTD: 042, VTD: 043, VTD: 501, VTD: 502, VTD: 503, VTD: 504, VTD: 505, VTD: 506, VTD: 507, VTD: 601, VTD: 602, VTD: 603, VTD: 604, VTD: 605, VTD: 606, VTD: 607, VTD: 901, VTD: 902, VTD: 903, VTD: 904, VTD: 905, VTD: 907. It has one judge.
- (24) District 21C: Forsyth County: VTD: 011, VTD: 012, VTD: 013, VTD: 014, VTD: 015, VTD: 021, VTD: 031, VTD: 032, VTD: 033, VTD: 034, VTD: 061, VTD: 062, VTD: 063, VTD: 064, VTD: 065, VTD: 066, VTD: 067, VTD: 068, VTD: 101, VTD: 111, VTD: 112, VTD: 801, VTD: 802, VTD: 803, VTD: 804, VTD: 805, VTD: 809, VTD: 906, VTD: 908, VTD: 909. It has one judge.
- (25) District 21D: Forsyth County: VTD: 081, VTD: 082, VTD: 083, VTD: 201, VTD: 203, VTD: 204, VTD: 205, VTD: 206, VTD: 207, VTD: 301, VTD: 302, VTD: 303, VTD: 304, VTD: 305, VTD: 306, VTD: 401, VTD: 402, VTD: 403, VTD: 404, VTD: 405. It has one judge.
- (26) District 26A: Mecklenburg County: VTD: 011, VTD: 012, VTD: 013, VTD: 014, VTD: 015, VTD: 016, VTD: 022, VTD: 023, VTD: 024, VTD: 025, VTD: 026, VTD: 027, VTD: 031, VTD: 033, VTD: 039: Block(s) 1190039021000, 1190039021001, 1190039021002, 1190039021003, 1190039021004, 1190039021005, 1190039021006, 1190039021007, 1190039021008, 1190039021009, 1190039021010, 1190039021011, 1190039021012, 1190039021013, 1190039021014, 1190039021015, 1190039021016, 1190039021017, 1190039021018, 1190039021019, 1190039021020, 1190039021021, 1190039022008, 1190039022014, 1190039022015, 1190039022016, 1190039024000, 1190039024001, 1190039024002, 1190039024003, 1190039024004, 1190039024005, 1190039024006, 1190039024007, 1190039024008, 1190039024009, 1190039024013, 1190039024014, 1190039024015, 1190039024016.

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(27) District 26B: Mecklenburg County: VTD: 001, VTD: 002, VTD: 003, VTD: 004, VTD: 005, VTD: 006, VTD: 007, VTD: 008, VTD: 009, VTD: 010, VTD: 017, VTD: 018, VTD: 020, VTD: 021, VTD: 028, VTD: 029, VTD: 030, VTD: 032, VTD: 034, VTD: 035, VTD: 036, VTD: 037, VTD: 038, VTD: 043, VTD: 044, VTD: 045, VTD: 047, VTD: 051, VTD: 061, VTD: 062, VTD: 063, VTD: 065, VTD: 066, VTD: 067, VTD: 068, VTD: 069, VTD: 070: Block(s) 1190030072011, 1190030072012, 1190030072020; VTD: 071, VTD: 074, VTD: 083, VTD: 084, VTD: 086, VTD: 087: Block(s) 1190058292006, 1190058292007, 1190058292008; VTD: 093, VTD: 094, VTD: 095, VTD: 100: Block(s) 1190030171000, 1190030171001, 1190030171002, 1190030171003, 1190030181000, 1190030181001, 1190030181002, 1190030181003, 1190030181004, 1190030181005, 1190030181006, 1190030181008, 1190030181009, 1190030181010, 1190030181011, 1190030181013, 1190030181014, 1190030181015, 1190030181018, 1190030181019; VTD: 101, VTD: 103: Block(s) 1190030151005, 1190030151010, 1190030152000, 1190030152001, 1190030152002, 1190030152003, 1190030152004, 1190030152005, 1190030152006, 1190030152007, 1190030152008, 1190030152009, 1190030152010, 1190030152011, 1190030152012, 1190030153000, 1190030153001, 1190030153002, 1190030153004, 1190030153005, 1190030153006, 1190030153007, 1190030153008.

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145, VTD: 146, VTD: 149, VTD: 151, VTD: 203, VTD: 204.1, VTD: 205,
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(28) District 26C: Mecklenburg County: VTD: 019, VTD: 039: Block(s)
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226, VTD: 227, VTD: 228, VTD: 229, VTD: 230, VTD: 231, VTD: 232,

VTD: 233, VTD: 234, VTD: 235, VTD: 236, VTD: 240, VTD: 241, VTD: 242, VTD: 243. It has two judges."

SECTION 2.(b) G.S. 7A-41(c) reads as rewritten:

- "(c) In subsection (b) ~~above~~above,
- (1) ~~The the names and boundaries of townships are as they were legally defined and in effect as of January 1, 1980, and recognized in the 1980 U.S. Census;~~
 - (2) ~~For Guilford County, the precincts are as they were legally defined and recognized as voting districts of the same name in the 2000 U.S. Census, except Greensboro Precincts 40A and 40B are as they were modified by the Guilford County Board of Elections and are as shown on the Legislative Services Office's redistricting computer database on May 1, 2001;~~
 - (2a) ~~For Wake County, the names and boundaries of voting tabulation districts and blocks specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles.~~
 - (3) ~~For Mecklenburg and Durham Counties, precinct boundaries are as shown on the current maps in use by the appropriate county board of elections as of January 31, 1984, in accordance with G.S. 163-128(b);~~
 - (4) ~~For Wilson County, commissioner districts are those in use for election of members of the county board of commissioners as of January 1, 1987;~~
 - (5) ~~For Cumberland County, House District 17 is in accordance with the boundaries in effect on January 1, 1987. Precincts are in accordance with those as approved by the United States Department of Justice on February 28, 1986; and~~
 - (6) ~~For Forsyth County, the precincts are as they were legally defined and recognized in the 2000 U.S. Census as of January 1, 2001; and~~
 - (7) ~~The names and boundaries of precincts in Montgomery, Moore, and Randolph Counties are those in existence on March 15, 1999.~~
 - (8) ~~The names and boundaries of precincts in New Hanover and Pender Counties are those in existence on December 1, 1999.~~voting tabulation districts, tracts, block groups, and blocks specified in this section are as shown on the 2010 Census Redistricting TIGER/Line Shapefiles.

(c1) ~~If any changes in precinct boundaries, wards, commissioner districts, or House of Representative districts have been made since the dates specified, or are made, those changes shall not change the boundaries of the superior court districts; provided that if any of those boundaries have changed, a precinct is divided by a superior court judicial district boundary, and the precinct was not so divided at the time of enactment of this section in 1987, the boundaries of the superior court judicial district are changed to place the entirety of the precinct in the superior court judicial district where the majority of the residents of the precinct reside, according to the 1990 Federal Census if:~~

- (1) ~~Such change does not result in placing a superior court judge in another superior court district;~~
- (2) ~~Such change does not make a district that has an effective racial minority electorate not have an effective racial minority electorate; and~~
- (3) ~~The change is approved by the county board of elections where the precinct is located, State Board of Elections and by the Secretary of State upon finding that the change:~~
 - a. ~~Will improve election administration; and~~
 - b. ~~Complies with subdivisions (1) and (2) of this subsection.~~

voting tabulation district boundary is changed, that change shall not change the boundary of a judicial district, which shall remain the same as it is depicted by the 2010 Census Redistricting TIGER/Line Shapefiles.

(c2) The Legislative Services Officer shall certify a true copy of the block assignment file associated with any mapping software used to generate the language in subsection (b) of this section. The certified true copy of the block assignment file shall be delivered by the Legislative Services Officer to the Principal Clerk of the Senate and the Principal Clerk of the House of Representatives. If any area within North Carolina is not assigned to a specific district by subsection (b) of this section, the certified true copy of the block assignment file delivered to the Principal Clerk of the Senate and the Principal Clerk of the House of Representatives shall control."

SECTION 2.(c) This section is effective when it becomes law and shall apply to elections held on or after January 1, 2013. This section shall not prevent any judge elected or appointed in 2012 or before from serving the remainder of the term to which that judge was elected or appointed.

SECTION 3. G.S. 138A-12 is amended by adding a new subsection to read:

"(n1) Staff to the Commission may share with staff to the Committee information connected to an inquiry into the conduct of a legislator under this section. The Commission shall provide to the Committee copies of all reports, investigative documents, information, and other documents used by the Commission when it refers a complaint to the Committee under subdivision (2) of subsection (h) of this section. Upon written request by staff to the Committee, the Commission shall provide copies of all reports, investigative documents, information, and other documents used by the Commission when it dismisses a complaint against a legislator under subsection (l) of this section. The information and documents provided to the Committee and staff to the Committee and the written request provided to the Commission are confidential and are not public records as defined in G.S. 132-1."

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 4:58 p.m. on the 12th day of July, 2012.

Session Law 2012-183

S.B. 738

AN ACT TO PROVIDE FOR THE PRE-LICENSING AND CONTINUING EDUCATION OF BAIL BONDSMEN AND RUNNERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-71-71 reads as rewritten:

"§ **58-71-71. Examination; educational requirements; penalties.**

(a) In order to be eligible to take the examination required to be licensed as a runner or bail bondsman under G.S. 58-71-70, each person shall complete at least 12 hours of education as provided by the North Carolina Bail Agents Association in subjects pertinent to the duties and responsibilities of a runner or bail bondsman, including all laws and regulations related to being a runner or bail bondsman.

(b) Each year every licensee shall complete at least three hours of continuing education as provided by the North Carolina Bail Agents Association in subjects related to the duties and responsibilities of a runner or bail bondsman before renewal of the license. This continuing education shall not include a written or oral examination. A person who receives his first license on or after January 1 of any year does not have to comply with this subsection until the period between his first and second license renewals.

(c) Any person licensed as a runner or bail bondsman before January 1, 1994, is not subject to the prelicensing education requirement of this section, but is subject to the continuing education requirement of this section. A licensed runner or bail bondsman who is 65 years of age or older and who has been licensed as a runner or bail bondsman for 15 years or more is

exempt from both the prelicensing education and continuing education requirements of this section.

(d) Educational courses offered by the North Carolina Bail Agents Association under this section must be approved by the Commissioner before they may be offered. Before approving a course, the Commissioner must be satisfied that ~~it~~ the course will enhance the professional competence and professional responsibility of bail bondsmen and runners. ~~No person shall~~ The North Carolina Bail Agents Association shall not offer, sponsor, or conduct any course under this section unless the Commissioner has ~~authorized that person~~ given authorization to do so.

(e) The license of any person who fails to comply with the continuing education requirements under this section shall lapse. The Commissioner may, for good cause shown, grant extensions of time to licensees to comply with these requirements. Any licensee who, after obtaining an extension under this subsection, offers evidence satisfactory to the Commissioner that the licensee has satisfactorily completed the required continuing professional education courses is in compliance with this section.

(f) The Commissioner may adopt rules for the effective administration of this section."

SECTION 2. This act becomes effective October 1, 2012.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 4:55 p.m. on the 12th day of July, 2012.

Session Law 2012-184

H.B. 1077

AN ACT TO ALLOW THE DEPARTMENT OF TRANSPORTATION TO ENTER INTO A PILOT PUBLIC-PRIVATE PARTNERSHIP TOLL PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18 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 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, and to plan, design, develop, acquire, construct, equip, maintain, and operate transportation infrastructure 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. No contract for transportation infrastructure subject to such an agreement that commits the Department to make nonretainage payments for undisputed capital costs of a completed transportation infrastructure to be made later than 18 months after final acceptance by the Department of such transportation infrastructure shall be executed without approval of the Local Government Commission. 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.

- (39a) The Department of Transportation may enter into a partnership agreement with a private entity as provided under subdivision (39) of this section for which the provisions of this section may apply. The pilot project allowed under this subdivision must be one that is a candidate for funding under the Mobility Fund, that is planned for construction through a public-private partnership, and for which a Request for Qualifications has been issued by the Department no later than June 30, 2012.
- a. A private entity or its contractors must provide performance and payment security in the form and in the amount determined by the Department of Transportation. The form of the performance and payment security may consist of bonds, letters of credit, parent guaranties, or other instruments acceptable to the Department of Transportation.
 - b. Notwithstanding the provisions of G.S. 143B-426.40A, an agreement entered into under this subdivision may allow the private entity to assign, transfer, sell, hypothecate, and otherwise convey some or all of its right, title, and interest in and to such agreement, and any rights and remedies thereunder, to a lender, bondholder, or any other party. However, in no event shall any such assignment create additional debt or debt-like obligations of the State of North Carolina, the Department, or any other agency, authority, commission, or similar subdivision of the State to any lender, bondholder, entity purchasing a participation in the right to receive the payment, trustee, trust, or any other party providing financing or funding of projects described in this section. The foregoing shall not preclude the Department from making any payments due and owing pursuant to an agreement entered into under this section.
 - c. The Department of Transportation may fix, revise, charge, and collect tolls and fees to the same extent allowed under Article 6H of Chapter 136 of the General Statutes. The Department may assign its authority to fix, revise, charge, and collect tolls and fees to the private entity.

...

- (43) For the purposes of financing an agreement under subdivision (39a) of this section, the Department of Transportation may act as a conduit issuer for private activity bonds to the extent the bonds do not constitute a debt obligation of the State. The issuance of private activity bonds under this subdivision and any related actions shall be governed by The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, with G.S. 159-88 satisfied by adherence to the requirements of subdivisions (39) and (39a) of this section."

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, 2012.

Became law upon approval of the Governor at 3:42 p.m. on the 16th day of July,

2012.

Session Law 2012-185

H.B. 1074

AN ACT TO MAKE CHANGES TO THE STATUTES GOVERNING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, AND THE DISABILITY INCOME PLAN OF NORTH CAROLINA TO PROVIDE PROTECTION AND REMEDIES FOR REPORTING VIOLATIONS OF RETIREMENT LAW; TO ESTABLISH GUIDELINES FOR FRAUD INVESTIGATIONS THAT WILL ENHANCE THE DEPARTMENT OF STATE TREASURER'S CAPABILITY TO PREVENT AND DETECT FRAUD, WASTE, AND ABUSE; TO MAKE IT A CLASS 1 MISDEMEANOR TO FRAUDULENTLY RECEIVE A DECEDENT'S MONTHLY DISABILITY BENEFIT; AND TO CLARIFY THE APPOINTMENT OF THE MEDICAL BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 128 of the General Statutes is amended by adding a new section to read:

"§ 128-38.6. Employee protection and remedies against unlawful retaliation for furnishing information to the Retirement Systems Division.

(a) In the absence of fraud or malice, no person who furnishes information to the staff of the Retirement Systems Division relating to the investigation of possible violations of retirement law shall be liable for damages in a civil action for any oral or written statement made or any other action that is necessary to supply such information to the Division.

(b) Any employee of a participating local employer who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by the employee's employer because of lawful acts done by the employee in furtherance of the Retirement Systems Division's receipt of information concerning possible violations of retirement law, including cooperation with the Division's investigation of possible violations, shall be entitled to all relief necessary to make the employee whole. Relief shall include reinstatement with the same seniority status as the employee would have had but for the discrimination or retaliation by the employing unit, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination or retaliation, including litigation costs and reasonable attorneys' fees. An employee may bring an action in superior court for the relief provided in this section."

SECTION 2.(a) G.S. 128-21 reads as rewritten:

"§ 128-21. 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:

...
(5a) "Authorized representatives who are assisting the Retirement Systems Division staff" means only other staff of the Department of State Treasurer, staff of the Department of Justice, or persons providing internal auditing assistance required under G.S. 143-746(b).

...
(11b) "Firefighter" means a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees' Retirement System and maintains a fire department certified by the North Carolina Department of Insurance and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire.

(11c) "Fraud investigation" means an independent review or examination by Retirement Systems Division staff or authorized representatives who are assisting the Retirement Systems Division staff of activities, actions, or

decisions by employers or other affiliated or associated entities having an impact on the Retirement System. The purpose of a fraud investigation is to help detect and prevent fraud and to ensure full accountability in the use of pension funds.

- ~~(11e)~~(11d) "Law Enforcement Officer" means a full-time paid employee of an employer, who possesses the power of arrest, who has taken the law enforcement oath administered under the authority of the State as prescribed by G.S. 11-11, and who is certified as a law enforcement officer under the provisions of Chapter 17C of the General Statutes or certified as a deputy sheriff under the provisions of Chapter 17E of the General Statutes. "Law enforcement officer" also means the sheriff of the county. The number of paid personnel employed as law enforcement officers by a law enforcement agency may not exceed the number of law enforcement positions approved by the applicable local governing board.

...."

SECTION 2.(b) G.S. 135-1 reads as rewritten:

"§ 135-1. Definitions.

The following words and phrases as used in this Chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

...

- (5a) "Authorized representatives who are assisting the Retirement Systems Division staff" means only other staff of the Department of State Treasurer, staff of the Department of Justice, or persons providing internal auditing assistance required under G.S. 143-746(b).

...

- (11a) "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.

- (11b) "Fraud investigation" means an independent review or examination by Retirement Systems Division staff or authorized representatives who are assisting the Retirement Systems Division staff of activities, actions, or decisions by employers or other affiliated or associated entities having an impact on the Retirement System. The purpose of a fraud investigation is to help detect and prevent fraud and to ensure full accountability in the use of pension funds.

- ~~(11b)~~(11c) "Law-Enforcement Officer" means a full-time paid employee of an employer who is 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 of North Carolina or serving civil processes, and who possesses the power of arrest by virtue of an oath administered under the authority of the State.

...."

SECTION 2.(c) G.S. 128-28 is amended by adding three new subsections to read:

"(r) Fraud Investigations – Access to Persons and Records. – In the course of conducting a fraud investigation, the Retirement Systems Division, or authorized representatives who are assisting the Retirement Systems Division staff, shall:

- (1) Have ready access to persons and may examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of any employer. The review of State tax returns shall be limited to matters of official business, and the Division's report shall not violate the confidentiality provisions of tax laws.

- (2) Have such access to persons, records, papers, reports, vouchers, correspondence, books, and any other documentation that is in the possession of any individual, private corporation, institution, association, board, or other organization which pertain to the following:
 - a. Amounts received pursuant to a grant or contract from the federal government, the State, or its political subdivisions.
 - b. Amounts received, disbursed, or otherwise handled on behalf of the federal government or the State.
- (3) Have the authority, and shall be provided with ready access, to examine and inspect all property, equipment, and facilities in the possession of any employer agency or any individual, private corporation, institution, association, board, or other organization that were furnished or otherwise provided through grant, contract, or any other type of funding by the employer agency.

With respect to the requirements of sub-subdivision (2)b. of this subsection, providers of social and medical services to a beneficiary shall make copies of records they maintain for services provided to a beneficiary available to the Retirement Systems Division, or to the authorized representatives who are assisting the Retirement Systems Division staff. Copies of the records of social and medical services provided to a beneficiary will permit verification of the health or other status of a beneficiary as required for the payment of benefits under Article 3 of this Chapter. The Retirement Systems Division, or authorized representatives who are assisting the Retirement Systems Division staff, shall request records in writing by providing the name of each beneficiary for whom records are sought, the purpose of the request, the statutory authority for the request, and a reasonable period of time for the production of record copies by the provider. A provider may charge, and the Retirement Systems Division, or authorized representatives who are assisting the Retirement Systems Division staff, shall, in accordance with G.S. 90-411, pay a reasonable fee to the provider for copies of the records provided in accordance with this subsection.

(s) Fraud Investigative Reports and Work Papers. – The Director of the Retirement Systems Division shall maintain for 10 years a complete file of all fraud investigative reports and reports of other examinations, investigations, surveys, and reviews issued under the Director's authority. Fraud investigation work papers and other evidence or related supportive material directly pertaining to the work of the Retirement Systems Division of the Department of State Treasurer shall be retained according to an agreement between the Director of Retirement and State Archives. To promote intergovernmental cooperation and avoid unnecessary duplication of fraud investigative effort, and notwithstanding local unit personnel policies to the contrary, pertinent work papers and other supportive material relating to issued fraud investigation reports may be, at the discretion of the Director of Retirement 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 in this section, or upon 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, fraud investigation work papers and related supportive material shall be kept confidential, including any information developed as a part of the investigation.

(t) Fraud Reports May Be Anonymous. – The identity of any person reporting fraud, waste, and abuse to the Retirement Systems Division shall be kept confidential and shall not be maintained as a public record within the meaning of G.S. 132-1."

SECTION 2.(d) G.S. 135-6 is amended by adding three new subsections to read:

"(q) Fraud Investigations – Access to Persons and Records. – In the course of conducting a fraud investigation, the Retirement Systems Division, or authorized representatives who are assisting the Retirement Systems Division staff, shall:

- (1) Have ready access to persons and may examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of any employer. The review of State tax returns shall be limited to matters of official business, and the Division's report shall not violate the confidentiality provisions of tax laws.
- (2) Have such access to persons, records, papers, reports, vouchers, correspondence, books, and any other documentation that is in the possession of any individual, private corporation, institution, association, board, or other organization that pertain to the following:
 - a. Amounts received pursuant to a grant or contract from the federal government, the State, or its political subdivisions.
 - b. Amounts received, disbursed, or otherwise handled on behalf of the federal government or the State.
- (3) Have the authority, and shall be provided with ready access, to examine and inspect all property, equipment, and facilities in the possession of any employer agency or any individual, private corporation, institution, association, board, or other organization that were furnished or otherwise provided through grant, contract, or any other type of funding by the employer agency.

With respect to the requirements of sub-subdivision (2)b. of this subsection, providers of social and medical services to a beneficiary shall make copies of records they maintain for services provided to a beneficiary available to the Retirement Systems Division, or to the authorized representatives who are assisting the Retirement Systems Division staff. Copies of the records of social and medical services provided to a beneficiary will permit verification of the health or other status of a beneficiary as required for the payment of benefits under Article 1, Article 4, or Article 6 of this Chapter. The Retirement Systems Division, or authorized representatives who are assisting the Retirement Systems Division staff, shall request records in writing by providing the name of each beneficiary for whom records are sought, the purpose of the request, the statutory authority for the request, and a reasonable period of time for the production of record copies by the provider. A provider may charge, and the Retirement Systems Division, or authorized representatives who are assisting the Retirement Systems Division staff, shall, in accordance with G.S. 90-411, pay a reasonable fee to the provider for copies of the records provided in accordance with this subsection.

(r) Fraud Investigative Reports and Work Papers. – The Director of the Retirement Systems Division shall maintain for 10 years a complete file of all fraud investigative reports and reports of other examinations, investigations, surveys, and reviews issued under the Director's authority. Fraud investigation work papers and other evidence or related supportive material directly pertaining to the work of the Retirement Systems Division of the Department of State Treasurer shall be retained according to an agreement between the Director of Retirement and State Archives. To promote intergovernmental cooperation and avoid unnecessary duplication of fraud investigative effort, and notwithstanding local unit personnel policies to the contrary, pertinent work papers and other supportive material relating to issued fraud investigation reports may be, at the discretion of the Director of Retirement 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 in this section, or upon 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, fraud investigation work papers and related supportive material shall be kept confidential, including any information developed as a part of the investigation.

(s) Fraud Reports May Be Anonymous. – The identity of any person reporting fraud, waste, and abuse to the Retirement Systems Division shall be kept confidential and shall not be maintained as a public record within the meaning of G.S. 132-1."

SECTION 3.(a) G.S. 135-18.11 reads as rewritten:

"§ **135-18.11. Improper receipt of decedent's retirement ~~allowance~~-allowance or disability benefit.**

A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud, receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's retirement allowance or a decedent's monthly benefit under the Disability Income Plan of North Carolina and the person (i) knows that he or she is not entitled to the decedent's retirement ~~allowance~~-allowance or the monthly disability benefit, (ii) receives the benefit at least two months after the date of the retiree's death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

SECTION 3.(b) G.S. 135-111 reads as rewritten:

"§ **135-111. Applicability of other pension laws.**

Subject to the provisions of this Article, the provisions of G.S. 135-9, entitled "Exemption from taxes, garnishment, attachment, etc."; G.S. 135-10, entitled "Protection against fraud"; G.S. 135-10.1, entitled "Failure to Respond"; G.S. 135-18.11, entitled "Improper receipt of decedent's retirement allowance or disability benefit"; and G.S. 135-17, entitled "Facility of payment" shall be applicable to this Article and to benefits paid pursuant to the provisions of this Article."

SECTION 4.(a) G.S. 128-28(l) reads as rewritten:

"(l) Medical Board. – The Board of Trustees shall designate a Medical Board to be composed of not less than three nor more than five physicians not eligible to participate in the Retirement System. The Board of Trustees may structure appointment requirements and term durations for those medical board members. If required, other physicians may be employed to report on special cases. The Medical Board shall arrange for and pass upon all medical examinations required under the provisions of this Chapter, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the Board of Trustees its conclusion and recommendations upon all the matters referred to it."

SECTION 4.(b) G.S. 135-6(k) reads as rewritten:

"(k) Medical Board. – The Board of Trustees shall designate a medical board to be composed of not less than three nor more than five physicians not eligible to participate in the Retirement System. The Board of Trustees may structure appointment requirements and term durations for those medical board members. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this Chapter, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the Board of Trustees its conclusion and recommendations upon all the matters referred to it."

SECTION 5. Section 3(a) of this act becomes effective December 1, 2012, and applies to acts committed on or after that date. The remainder of this act becomes effective July 1, 2012.

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 3:44 p.m. on the 16th day of July, 2012.

Session Law 2012-186

H.B. 177

AN ACT TO: (1) CREATE AN INTERAGENCY TASK FORCE TO STUDY THE FEASIBILITY AND DESIRABILITY OF ADVANCING THE USE OF ALTERNATIVE FUELS BY STATE AGENCIES AND THE DEVELOPMENT OF ASSOCIATED FUELING INFRASTRUCTURE; (2) ESTABLISH CRITERIA FOR THE OPERATION OF ELECTRIC VEHICLE CHARGING STATIONS LOCATED AT STATE-OWNED REST STOPS ALONG THE HIGHWAYS AND; (3) AMEND THE ENERGY JOBS ACT OF 2011 IF THE ENERGY JOBS ACT OF 2011 BECOMES LAW.

The General Assembly of North Carolina enacts:

PART I. CREATE AN INTERAGENCY TASK FORCE TO STUDY THE FEASIBILITY AND DESIRABILITY OF ADVANCING THE USE OF ALTERNATIVE FUELS BY STATE AGENCIES AND THE DEVELOPMENT OF ASSOCIATED FUELING INFRASTRUCTURE

SECTION 1.(a) It is the intent of the General Assembly to reduce the costs of fuel used by State agencies and transition to the use of cleaner, more cost-effective, and where available, State-produced fuel resources for transportation purposes.

SECTION 1.(b) The State Energy Office within the Department of Commerce, in consultation with the Department of Administration, Department of Public Instruction, Department of Transportation, and other agencies as applicable, shall create an interagency task force responsible for studying the feasibility and desirability of advancing the use of alternative fuels, as defined in G.S. 143-58.4, by State agencies. As part of its study, the State Energy Office shall perform a cost-benefit analysis on each alternative fuel, using both current and projected fuel pricing, and environmental benefits, to identify the fuel or fuel mix that would be the most cost-effective for each type of vehicle used by each agency. The State Energy Office shall evaluate the cost of alternative fueled vehicles, including the purchase price, environmental considerations, and operations and maintenance costs. The State Energy Office shall also review the costs for any associated fueling infrastructure necessary to support the operation and maintenance of the vehicles that use the alternative fuels evaluated in the study. In its review of associated fueling infrastructure, the State Energy Office shall identify opportunities for the use of existing commercial or public fueling infrastructure, the potential for leveraging State funds with other public or private monies in order to develop new fueling infrastructure, and the duration of public-private fuel contracts in order to minimize the costs to the State. Based on the results of the study, the State Energy Office shall make recommendations on which fuel or fuel mix and types of alternative fueled vehicles would be appropriate for each agency, taking into account costs, geographic considerations, population densities, environmental impacts, and access to available infrastructure.

SECTION 1.(c) The Task Force shall report the results of its study and any recommendations to the Joint Legislative Commission on Energy Policy on or before December 1, 2012.

PART II. ESTABLISH CRITERIA FOR THE OPERATION OF ELECTRIC VEHICLE CHARGING STATIONS LOCATED AT STATE-OWNED REST STOPS ALONG THE HIGHWAYS

SECTION 2.(a) The Department of Transportation may operate an electric vehicle charging station at State-owned rest stops along the highways only if all of the following conditions are met:

- (1) The electric vehicle charging station is accessible by the public.

- (2) The Department has developed a mechanism to charge the user of the electric vehicle charging station a fee in order to recover the cost of electricity consumed, the cost of processing the user fee, and a proportionate cost of the operation and maintenance of the electric vehicle charging station.

SECTION 2.(b) If the cost of the electricity consumed at the electric vehicle charging stations cannot be calculated as provided by subsection (a) of this section, the Department shall develop an alternative mechanism, other than electricity metering, to recover the cost of the electricity consumed at the vehicle charging station.

SECTION 2.(c) The Department may consult with other State agencies and industry representatives in order to develop the mechanisms for cost recovery required pursuant to subsection (a) of this section.

SECTION 2.(d) Beginning January 1, 2014, and annually thereafter, the Department of Transportation shall report to the Joint Legislative Commission on Energy Policy, the Joint Legislative Transportation Oversight Committee, the House Appropriations Subcommittee on Transportation, and the Senate Appropriations Subcommittee on Department of Transportation on the implementation of this section.

PART III. AMEND THE ENERGY JOBS ACT OF 2011 IF THE ENERGY JOBS ACT OF 2011 BECOMES LAW

SECTION 3.(a) If Senate Bill 709 of the 2011 Regular Session becomes law, Sections 2(a), 2(b), and 2(c) of Senate Bill 709 read as rewritten:

"SECTION 2.(a) Development of ~~Governors'~~ Regional Interstate Offshore Energy Policy Compact. – ~~The Governor is directed to commence~~shall lay the groundwork for development of a regional energy ~~compact strategy by working~~ with the governors of South Carolina and Virginia ~~in order to develop recommendations for creation and implementation of~~ a unified regional strategy for the exploration, development, and production of all commercially viable federal and state offshore energy resources within the three-state region. The Governor shall develop recommendations for the General Assembly to consider for the development of a statutory regional compact, and these recommendations shall reflect the collective agreement of all three governors in the three-state region in order to provide common language for consideration by each state's General Assembly. During the development of these compact recommendations, the Governor is authorized to work directly with each of the three states' General Assemblies, Congressional delegations, the United States Department of the Interior, the United States Environmental Protection Agency, and other appropriate federal agencies on behalf of the State of North Carolina to develop appropriate strategies to be considered in the development of the three-state compact for increasing domestic energy exploration, development, and production within each state in the three-state region and their adjacent state and federal waters. The compact negotiations and recommendations shall address at least all of the following:

- (1) Ensure a timely review and consideration of permits and proposals at both the state and federal level for both state and federal waters adjacent to each state in the three-state region for seismic and other marine geophysical exploration to identify and quantify natural gas and related hydrocarbon resources along the continental margin.
- (2) Amend the Five Year Leasing Plan of the United States Department of the Interior to include leasing federal waters adjacent to the State and the three-state region for the exploration, quantification, and development of natural gas and related hydrocarbon energy resources.
- (3) Advocate proactively with each state's Congressional delegation and appropriate federal agencies to ensure direct sharing of royalties and revenues related to energy leasing, exploration, development, and production

of all offshore energy resources in federal waters adjacent to the State and the three-state region.

- (4) Request the United States Department of the Interior to reinstate the federal Offshore Policy Committee with new members and new alternate members to be nominated by the governor of the state represented on the Offshore Policy Committee and appointed by the Secretary of the Interior, six of whom are to be one member and one alternate member from each of North Carolina, Virginia, and South Carolina.

"SECTION 2.(b) No later than three months after the effective date of this act, and at least every three months thereafter, the Governor shall report to the General Assembly on the progress of the Governor and others in complying with the requirements under this section, to include providing copies of correspondence and other relevant materials to or from the Office of the Governor when the correspondence or materials pertain to the subject under this section or to any requirement under this section. The Governor shall report ~~her~~ the Governor's final recommendations for the three-state energy compact regional energy strategy to the Joint Regulatory Reform Committee no later than May 1, 2012. President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than December 31, 2012.

"SECTION 2.(c) In addition to the provisions in Sections 2(a) and 2(b) of this act, the Governor is strongly encouraged to join the Governors of Alaska, Texas, Louisiana, Mississippi, and Virginia and any others who may sign on to the Outer Continental Shelf Governors Coalition announced on May 3, 2011, to promote a constructive dialogue among the coastal state governors and the federal government on offshore energy issues important to the future of North Carolina and the United States."

SECTION 3.(b) If Senate Bill 709 of the 2011 Regular Session becomes law, Sections 3(a) and 3(b) of Senate Bill 709 are repealed.

SECTION 3.(c) If Senate Bill 709 of the 2011 Regular Session becomes law, G.S. 113B-3, as amended by Senate Bill 709, reads as rewritten:

"§ 113B-3. Composition of Council; appointments; terms of members; qualifications.

- (a) The Energy Jobs Council shall consist of 12 members to be appointed as follows:

- (1) Repealed.
- (2) Repealed.
- (2a) The Secretary of Commerce.
- (3) Eleven public members who are citizens of the State of North Carolina and who are appointed in accordance with subsection (c) of this section.

(b) Appointments to the Energy Jobs Council shall be made by ~~October 1, 2011,~~ September 1, 2012, and the appointed members shall serve four-year terms. Appointments made by the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall be allowed when the General Assembly is not in session.

(c) The public members of the Energy Jobs Council shall have the qualifications and shall be appointed as follows:

- (1) One member shall be a representative of an investor-owned electric public utility, to be appointed by the Governor.
- (2) One member shall be a geologist experienced in ~~offshore~~ natural gas and associated hydrocarbon exploration, development, and production, to be appointed by the Governor.
- (3) One member shall be a representative of an investor-owned natural gas public utility, to be appointed by the President Pro Tempore of the Senate.
- (4) One member shall be an energy economist or a person with experience in the financing or business development or an energy-related business, to be appointed by the President Pro Tempore of the Senate.
- (5) One member shall be a geologist with experience in hydrocarbon resource evaluation and geophysical data acquisition, to be appointed by the President Pro Tempore of the Senate.

- (6) One member shall be an industrial energy consumer, to be appointed by the Speaker of the House of Representatives.
- (7) One member shall be knowledgeable of alternative and renewable sources of energy, other than wind energy, to be appointed by the Speaker of the House of Representatives.
- (8) One member who has experience in trucking, rail, or shipping transportation, to be appointed by the Speaker of the House of Representatives.
- (9) Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.
- (10) One member shall be a representative with experience in wind energy, to be appointed by the Governor.
- (11) One member shall be a representative with experience in environmental management, appointed by the Speaker of the House of Representatives.
- (12) One member shall be ~~involved with the biofuels industry,~~experienced in energy policy, to be appointed by the President Pro Tempore of the Senate."

PART IV. EFFECTIVE DATE

SECTION 4. Sections 2(a), 2(b), 2(c), and 2(d) of this act become effective March 1, 2013. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 3:46 p.m. on the 16th day of July, 2012.

Session Law 2012-187

S.B. 810

AN ACT TO (1) REESTABLISH THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE; (1A) MODIFY APPOINTMENTS TO THE MINING AND ENERGY COMMISSION; (2A) MAKE VARIOUS TECHNICAL AND CLARIFYING CHANGES TO THE ADMINISTRATIVE PROCEDURES ACT; (2B) MAKE CONFORMING CHANGES TO THE STATE PERSONNEL ACT; (3) EXTEND THE EFFECTIVE DATE FOR CHANGES TO FINAL DECISION-MAKING AUTHORITY IN CERTAIN CONTESTED CASES; (4) LIMIT THE PERIOD DURING WHICH RECORDS OF UNCLAIMED PROPERTY MUST BE MAINTAINED; (5A) DIRECT AGENCIES TO SUBMIT A REPORT ON NOTICE GIVEN BEFORE AUDITING OR EXAMINING A BUSINESS TO THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE; (5B) LIMIT STATE AGENCY IDENTITY THEFT REPORTING REQUIREMENTS; (5C) REQUIRE THE DEPARTMENT OF LABOR TO PROVIDE NOTICE PRIOR TO INSPECTIONS; (6) CLARIFY THAT THE DISCHARGE OF WASTE INTO WATERS OF THE STATE DOES NOT INCLUDE THE RELEASE OF AIR CONTAMINANTS INTO THE OUTDOOR ATMOSPHERE; (7) AUTHORIZE RATHER THAN REQUIRE THE COMMISSION FOR PUBLIC HEALTH TO ADOPT RULES FOR THE TESTING OF WATER FROM NEW DRINKING WATER WELLS FOR CERTAIN VOLATILE ORGANIC COMPOUNDS; (7A) CLARIFY APPLICATION OF CERTAIN NUTRIENT RULES TO SMALL WASTEWATER DISCHARGES; (8) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO TRACK AND REPORT ON PERMIT PROCESSING TIMES; (9) DELAY THE EFFECTIVE DATE FOR COMPLIANCE WITH WADING POOL FENCING REQUIREMENTS FROM JULY 1, 2012, TO JANUARY 1, 2013; (10) DIRECT THE COMMISSION FOR PUBLIC HEALTH TO AMEND THE RULES GOVERNING THE DURATION OF PERMITS FOR SANITARY LANDFILLS AND THE PERIOD IN WHICH THOSE PERMITS ARE REVIEWED; (11) AMEND THE CRITERIA FOR DESIGNATION AS A PORT ENHANCEMENT ZONE; (12) EXEMPT CERTIFIED ROADSIDE FARM MARKETS

FROM CERTAIN BUILDING CODE REQUIREMENTS; AND (13) ALLOW THE PERMITTING OF MOBILE FOOD UNITS THAT MEET THE SANITATION REQUIREMENTS OF A COMMISSARY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1.3 of S.L. 2011-291 is repealed.

SECTION 1.1. If Senate Bill 820 becomes law, then, effective August 1, 2012, G.S. 143B-293.2(a), as enacted by Section 1(b) of Senate Bill 820, reads as rewritten:

"(a) Members Selection. – The North Carolina Mining and Energy Commission shall consist of 15 members appointed as follows:

- (1) The Chair of the North Carolina State University Minerals Research Laboratory Advisory Committee, or the Chair's designee, ex officio.
- (2) The State Geologist, or the State Geologist's designee, ex officio.
- (3) The Assistant Secretary of Energy for the Department of Commerce, ex officio.
- (4) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of a nongovernmental conservation interest.
- (5) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is an elected official of a municipal government located in the Triassic Basin of North Carolina.
- (6) ~~One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a member of the Environmental Management Commission and knowledgeable in the principles of water and air resources management.~~One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who is a representative of the mining industry.
- (7) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who shall be a geologist with experience in oil and gas exploration and development.
- (8) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a nongovernmental conservation interest.
- (9) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of a county board of commissioners of a county located in the Triassic Basin of North Carolina.
- (10) ~~One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a member of the Commission for Public Health and knowledgeable in the principles of waste management.~~One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who is a representative of the mining industry.
- (11) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who shall be an engineer with experience in oil and gas exploration and development.
- (12) One appointed by the Governor who shall be a representative of a publicly traded natural gas company.
- (13) One appointed by the Governor who shall be a licensed attorney with experience in legal matters associated with oil and gas exploration and development.

- (14) ~~One appointed by the Governor who is a representative of the mining industry.~~ One appointed by the Governor who is a member of the Environmental Management Commission and knowledgeable in the principles of water and air resources management.
- (15) ~~One appointed by the Governor who is a representative of the mining industry.~~ One appointed by the Governor who is a member of the Commission for Public Health and knowledgeable in the principles of waste management."

SECTION 2. G.S. 150B-18 reads as rewritten:

"§ 150B-18. Scope and effect.

This Article applies to an agency's exercise of its authority to adopt a rule. A rule is not valid unless it is adopted in substantial compliance with this Article. An agency shall not seek to implement or enforce against any person a policy, guideline, or other ~~nonbinding~~ interpretive statement that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy, guideline, or other ~~nonbinding~~ interpretive statement has not been adopted as a rule in accordance with this Article."

SECTION 3. G.S. 150B-19.1 reads as rewritten:

"§ 150B-19.1. Requirements for agencies in the rule-making process.

(a) In developing and drafting rules for adoption in accordance with this Article, agencies shall adhere to the following principles:

- (1) An agency may adopt only rules that are expressly authorized by federal or State law and that are necessary to serve the public interest.
- (2) An agency shall seek to reduce the burden upon those persons or entities who must comply with the rule.
- (3) Rules shall be written in a clear and unambiguous manner and must be reasonably necessary to implement or interpret federal or State law.
- (4) An agency shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed. The agency shall not adopt a rule that is unnecessary or redundant.
- (5) When appropriate, rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall include a reference to this information in the notice of text required by G.S. 150B-21.2(c).
- (6) Rules shall be designed to achieve the regulatory objective in a cost-effective and timely manner.

(b) Each agency subject to this Article shall conduct an annual review of its rules to identify existing rules that are unnecessary, unduly burdensome, or inconsistent with the principles set forth in subsection (a) of this section. The agency shall repeal any rule identified by this review.

(c) Each agency subject to this Article shall post on its ~~Web site when the agency submits the notice of text for publication in accordance with G.S. 150B-21.2~~ Web site, no later than the publication date of the notice of text in the North Carolina Register, all of the following:

- (1) The text of a proposed rule.
- (2) An explanation of the proposed rule and the reason for the proposed rule.
- (3) The federal certification required by subsection (g) of this section.
- (4) Instructions on how and where to submit oral or written comments on the proposed rule.
- (5) Any fiscal note that has been prepared for the proposed rule.

~~The agency shall maintain the information in a searchable database and shall periodically update this online information to reflect changes in the proposed rule or the fiscal note prior to adoption.~~ If an agency proposes any change to a rule or fiscal note prior to the date it proposes to adopt a rule, the agency shall publish the proposed change on its Web site as soon as

practicable after the change is drafted. If an agency's staff proposes any such change to be presented to the rule-making agency, the staff shall publish the proposed change on the agency's Web site as soon as practicable after the change is drafted.

(d) Each agency shall determine whether its policies and programs overlap with the policies and programs of another agency. In the event two or more agencies' policies and programs overlap, the agencies shall coordinate the rules adopted by each agency to avoid unnecessary, unduly burdensome, or inconsistent rules.

(e) Each agency shall quantify the costs and benefits to all parties of a proposed rule to the greatest extent possible. Prior to submission of a proposed rule for publication in accordance with G.S. 150B-21.2, the agency shall review the details of any fiscal note prepared in connection with the proposed rule ~~with the rule-making body, and the rule-making body must~~ and approve the fiscal note before submission.

(f) If the agency determines that a proposed rule will have a substantial economic impact as defined in G.S. 150B-21.4(b1), the agency shall consider at least two alternatives to the proposed rule. The alternatives may have been identified by the agency or by members of the public.

(g) Whenever an agency proposes a rule that is purported to implement a federal law, or required by or necessary for compliance with federal law, or on which the receipt of federal funds is conditioned, the agency shall:

- (1) Prepare a certification identifying the federal law requiring adoption of the proposed rule. The certification shall contain a statement setting forth the reasons why the proposed rule is required by federal law. If all or part of the proposed rule is not required by federal law or exceeds the requirements of federal law, then the certification shall state the reasons for that opinion.
- (2) Post the certification on the agency Web site in accordance with subsection (c) of this section.
- (3) Maintain a copy of the federal law and provide to the Office of State Budget and Management the citation to the federal law requiring or pertaining to the proposed rule.

(h) Before an agency that is within the Governor's cabinet submits the proposed text of a permanent rule change for publication in the North Carolina Register, the agency must submit the text of the proposed rule change and an analysis of the proposed rule change to the Office of State Budget and Management and obtain a certification from the Office that the agency adhered to the principles set forth in this section. Before an agency that is within the departments of the Council of State, other than the Governor, submits the proposed text of a permanent rule change for publication in the North Carolina Register, the agency must submit the text of the proposed rule change and an analysis of the proposed rule change to the Commission and obtain a certification from the Commission, or the Commission's designee, as described in G.S. 150B-21.1(b), that the agency adhered to the principles set forth in this section. The Office of State Budget and Management or the Commission, respectively, must respond to an agency's request for certification within 20 business days of receipt of the request."

SECTION 4. G.S. 150B-21.4(a) reads as rewritten:

"(a) State Funds. – Before an agency publishes in the North Carolina Register the proposed text of a permanent rule change that would require the expenditure or distribution of funds subject to the State Budget Act, Chapter 143C of the General Statutes it must submit the text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on the proposed rule change to the Office of State Budget and Management and obtain certification from the Office that the funds that would be required by the proposed rule change are available. ~~The Office must also determine and certify that the agency adhered to the principles set forth in G.S. 150B-19.1.~~ The fiscal note must state the amount of funds that would be expended or distributed as a result of the proposed rule change and explain how the amount was computed. The Office of State Budget and Management must certify a proposed

rule change if funds are available to cover the expenditure or distribution required by the proposed rule change."

SECTION 5. G.S. 150B-23.2(b) reads as rewritten:

"(b) Time of Collection. – All fees that are required to be assessed, collected, and remitted under subsection (a) of this section shall be collected by the Office of Administrative Hearings at the time of commencement of the contested case ~~(except in suits in forma pauperis)~~except as may be allowed by rule to permit or complete late payment or in suits in forma pauperis."

SECTION 6. G.S. 150B-23(a) reads as rewritten:

"(a) A contested case shall be commenced by paying a fee in an amount established in G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except as provided in Article 3A of this Chapter, shall be conducted by that Office. The party who files the petition shall serve a copy of the petition on all other parties and, if the dispute concerns a license, the person who holds the license. A party who files a petition shall file a certificate of service together with the petition. A petition shall be signed by a ~~party or a representative of the party~~party, an attorney representing a party, or other representative of the party as may specifically be authorized by law, and, if filed by a party other than an agency, shall state facts tending to establish that the agency named as the respondent has deprived the petitioner of property, has ordered the petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced the petitioner's rights and that the agency:

- (1) Exceeded its authority or jurisdiction;
- (2) Acted erroneously;
- (3) Failed to use proper procedure;
- (4) Acted arbitrarily or capriciously; or
- (5) Failed to act as required by law or rule.

The parties in a contested case shall be given an opportunity for a hearing without undue delay. Any person aggrieved may commence a contested case hereunder.

A local government employee, applicant for employment, or former employee to whom Chapter 126 of the General Statutes applies may commence a contested case under this Article in the same manner as any other petitioner. The case shall be conducted in the same manner as other contested cases under this Article."

SECTION 7.1. G.S. 150B-29(a) reads as rewritten:

"(a) In all contested cases, irrelevant, immaterial and unduly repetitious evidence shall be excluded. Except as otherwise provided, the rules of evidence as applied in the trial division of the General Court of Justice shall be followed; but, when evidence is not reasonably available under the rules to show relevant facts, then the most reliable and substantial evidence available shall be admitted. On the judge's own motion, an administrative law judge may exclude evidence that is inadmissible under this section. The party with the burden of proof in a contested case must establish the facts required by G.S. 150B-23(a) by a preponderance of the evidence. It shall not be necessary for a party or his attorney to object at the hearing to evidence in order to preserve the right to object to its consideration by the administrative law judge in making a ~~decision, by the agency in making a final decision,~~decision or by the court on judicial review."

SECTION 7.2. G.S. 150B-33(b) reads as rewritten:

"(b) An administrative law judge may:

...

- (11) Order the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved in contested cases decided under this Article where the administrative law judge finds that the State agency named as respondent has substantially prejudiced the petitioner's rights and has acted arbitrarily or capriciously or under Chapter 126 where the administrative law judge finds discrimination, harassment, or orders reinstatement or back pay.

...."

SECTION 7.3. Section 55.2 of S.L. 2011-398 reads as rewritten:

"**SECTION 55.2.** If necessary to effectuate the purposes of this act, The Office of Administrative Hearings shall seek United States Environmental Protection Agency approval to become an agency responsible for administering programs under the federal Clean Water Act, 33 U.S.C. §1251 et seq., the Clean Air Act, 42 U.S.C. §7401 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. On or before December 31, 2011, the Office of Administrative Hearings and the Department of Environment and Natural Resources shall jointly develop and submit any Memoranda of Agreement, delineations of programmatic responsibility, procedure for coordination, and other information that United States Environmental Protection Agency may require in order to effectuate ~~the~~any necessary approval process."

SECTION 8.1. Section 63 of S.L. 2011-398 reads as rewritten:

"**SECTION 63.** Sections 2 through 14 of this act become effective October 1, 2011, and apply to rules adopted on or after that date. Sections 15 through 55 of this act become effective January 1, 2012, and apply to contested cases commenced on or after that date. With regard to contested cases affected by Section 55.2 of this act, the provisions of Sections 15 through 27 of this act become effective when the United States Environmental Protection Agency approvals referenced in Section 55.2 have been issued or ~~June 15, 2012,~~October 1, 2012, whichever occurs first. With regard to contested cases affected by Section 55.1 of this act, the provisions of Sections 15 through 27 and Sections 32 and 33 of this act become effective when the waiver referenced in Section 55.1 has been granted or February 1, 2013, whichever occurs first. Unless otherwise provided elsewhere in this act, the remainder of this act is effective when it becomes law."

SECTION 8.2. G.S. 126-34 reads as rewritten:

"§ 126-34. **Grievance appeal for career State employees.**

Unless otherwise provided in this Chapter, any career State employee having a grievance arising out of or due to the employee's employment and who does not allege unlawful harassment or discrimination because of the employee's age, sex, race, color, national origin, religion, creed, handicapping condition as defined by G.S. 168A-3, or political affiliation shall first discuss the problem or grievance with the employee's supervisor and follow the grievance procedure established by the employee's department or agency. Any State employee having a grievance arising out of or due to the employee's employment who alleges unlawful harassment because of the employee's age, sex, race, color, national origin, religion, creed, or handicapping condition as defined by G.S. 168A-3 shall submit a written complaint to the employee's department or agency. The department or agency shall have 60 days within which to take appropriate remedial action. If the employee is not satisfied with the department or agency's response to the complaint, the employee shall have the right to appeal directly to the ~~State Personnel Commission~~Office of Administrative Hearings."

SECTION 8.3. G.S. 126-34.1(e) reads as rewritten:

"(e) Any issue for which appeal to the ~~State Personnel Commission~~Office of Administrative Hearings through the filing of a contested case under Article 3 of Chapter 150B of the General Statutes has not been specifically authorized by this section shall not be grounds for a contested case under Chapter 126."

SECTION 8.4. G.S. 126-35(a) reads as rewritten:

"(a) No career State employee subject to the State Personnel Act shall be discharged, suspended, or demoted for disciplinary reasons, except for just cause. In cases of such disciplinary action, the employee shall, before the action is taken, be furnished with a statement in writing setting forth in numerical order the specific acts or omissions that are the reasons for the disciplinary action and the employee's appeal rights. The employee shall be permitted 15 days from the date the statement is delivered to appeal to the head of the department. However, an employee may be suspended without warning for causes relating to personal conduct detrimental to State service, pending the giving of written reasons, in order to avoid undue

disruption of work or to protect the safety of persons or property or for other serious reasons. The employee, if he is not satisfied with the final decision of the head of the department, or if he is unable, within a reasonable period of time, to obtain a final decision by the head of the department, may appeal to the ~~State Personnel Commission~~Office of Administrative Hearings. Such appeal shall be filed not later than 30 days after receipt of notice of the department head's decision. The State Personnel Commission may adopt, subject to the approval of the Governor, rules that define just cause."

SECTION 8.5. G.S. 126-36 reads as rewritten:

"§ 126-36. **Appeal of unlawful State employment practice.**

(a) Any State employee or former State employee who has reason to believe that employment, promotion, training, or transfer was denied the employee or that demotion, layoff, transfer, or termination of employment was forced upon the employee in retaliation for opposition to alleged discrimination or because of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3 except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration, shall have the right to appeal directly to the ~~State Personnel Commission~~Office of Administrative Hearings.

(b) Subject to the requirements of G.S. 126-34, any State employee or former State employee who has reason to believe that the employee has been subjected to any of the following shall have the right to appeal directly to the ~~State Personnel Commission~~Office of Administrative Hearings:

- (1) Harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo.
- (2) Retaliation for opposition to harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo."

SECTION 8.6. G.S. 126-36.1 reads as rewritten:

"§ 126-36.1. **Appeal to ~~Personnel Commission~~Office of Administrative Hearings by applicant for employment.**

Any applicant for State employment who has reason to believe that employment was denied in violation of G.S. 126-16 shall have the right to appeal directly to the ~~State Personnel Commission~~Office of Administrative Hearings."

SECTION 8.7. G.S. 126-36.2 reads as rewritten:

"§ 126-36.2. **Appeal to ~~Personnel Commission~~Office of Administrative Hearings by career State employee denied notice of vacancy or priority consideration.**

Any career State employee who has reason to believe that he was denied promotion due to the failure of the agency, department, or institution that had a job vacancy to:

- (1) Post notice of the job vacancy pursuant to G.S. 126-7.1(a) or;
- (2) Give him priority consideration pursuant to G.S. 126-7.1(c)

may appeal directly to the ~~State Personnel Commission~~Office of Administrative Hearings."

SECTION 9. G.S. 116B-73(a) reads as rewritten:

"(a) Except as otherwise provided in subsection (b) of this section, a holder required to file a report under G.S. 116B-60 shall maintain the records containing the information required to be included in the report for ~~10 years~~five years after the holder files the report, unless a shorter period is provided by rule of the Treasurer."

SECTION 10.1.(a) Each State agency, as defined in G.S. 150B-2(1a), shall submit a report of the audit, examination, and inspection functions performed by the agency and the amount of notice, if any, that the agency is required, by law or rule, to provide to a business, nonprofit, or individual prior to conducting the audit, examination, or inspection. The agency

shall submit the report to the Joint Legislative Administrative Procedure Oversight Committee, as reestablished by Section 1 of this act, no later than October 31, 2012.

SECTION 10.1.(b) Article 1 of Chapter 95 of the General Statutes is amended by adding a new section to read:

"§ 95-9.1. Notice of employer's rights during farm inspections.

The Department of Labor shall, in consultation with farm organizations and the Department of Agriculture and Consumer Services, prepare a notice to be delivered to the employer, at the beginning of an inspection of any premises engaged in agricultural employment in this State. The notice shall advise the employer of any rights or recourse to which the employer and employees are entitled under State or federal law in connection with any inspection of the employer's premises or operation conducted by the Department of Labor. The Department shall deliver the notice to the employer at the beginning of an inspection of premises used for agricultural employment. For purposes of this section, the term "agricultural employment" shall have the same meaning as defined in G.S. 95-223(1).

SECTION 10.1.(c) Section 10.1(b) of this act becomes effective August 1, 2012, and applies to all inspections of premises engaged in agricultural employment conducted by the Department of Labor on or after that date.

SECTION 10.2 G.S. 120-270 reads as rewritten:

"§ 120-270. Report by State agencies to the General Assembly on ways to reduce incidence of identity theft.

Agencies of the State shall evaluate ~~and report annually by January 1 to the General Assembly about~~ the agency's efforts to reduce the dissemination of personal identifying information, as defined in G.S. 14-113.20(b). The evaluation shall include the review of public forms, the use of random personal identification numbers, restriction of access to personal identifying information, and reduction of use of personal identifying information when it is not necessary. Special attention shall be given to the use, collection, and dissemination of social security numbers. If the collection of a social security number is found to be unwarranted, the State agency shall immediately discontinue the collection of social security numbers for that purpose. Any agency that determines that an act of the General Assembly or other provision of law impedes the agency's ability to reduce the incidence of identity theft shall report such findings to the General Assembly by January 1 of the year following such a determination."

SECTION 10.3. G.S. 143B-431(e) reads as rewritten:

"(e) The Department of Commerce may establish a clearinghouse for State business license information and shall perform the following duties:

...

- (5) Collaborate with the business license coordinator designated in State agencies in providing information on the licenses and regulatory requirements of the agency, and in coordinating conferences with applicants to clarify license and regulatory requirements.

...

- f. Report, on a ~~quarterly~~ an annual basis, to the Department on the number of licenses issued during the previous ~~quarter~~ fiscal year on a form prescribed by the Department."

SECTION 11. G.S. 143-213 reads as rewritten:

"§ 143-213. Definitions.

Unless the context otherwise requires, the following terms as used in this Article and Articles 21A and 21B of this Chapter are defined as follows:

...

- (9) Whenever reference is made in this Article to "discharge" or the "discharge of waste," it shall be interpreted to include discharge, spillage, leakage, pumping, placement, emptying, or dumping into waters of the State, or into any unified sewer system or arrangement for sewage disposal, which system or arrangement in turn discharges the waste into the waters of the State. A

reference to "discharge" or the "discharge of waste" shall not be interpreted to include "emission" as defined in subdivision (12) of this section.

...
 (12) The term "emission" means a release into the outdoor atmosphere of air contaminants.

...."

SECTION 12.(a) Section 1 of S.L. 2008-198, S.L. 2009-124, and Section 10.10A of S.L. 2010-31 are repealed.

SECTION 12.(b) G.S. 87-97 reads as rewritten:

"§ 87-97. Permitting, inspection, and testing of private drinking water wells.

...
 (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.

(i) Commission for Public Health to Adopt Drinking Water Testing Rules. – The Commission for Public Health shall adopt rules governing the sampling and testing of well water and the reporting of test results. The rules shall allow local health departments to designate third parties to collect and test samples and report test results. The rules shall also provide for corrective action and retesting where appropriate. The Commission for Public Health may by rule require testing for additional ~~parameters~~ parameters, including volatile organic compounds, if the Commission makes a specific finding that testing for the additional parameters is necessary to protect public health. If the Commission finds that testing for certain volatile organic compounds is necessary to protect public health and initiates rule making to require testing for certain volatile organic compounds, the Commission shall consider all of the following factors in the development of the rule: (i) known current and historic land uses around well sites and associated contaminants; (ii) known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other relevant factors; (iii) any GIS-based information on known contamination sources from databases available to the Department of Environment and Natural Resources; and (iv) visual on-site inspections of well sites.

...."

SECTION 12.1. Rules adopted by the Environmental Management Commission pursuant to S.L. 2009-216 and S.L. 2009-486 to implement nutrient management strategies for the B. Everett Jordan Reservoir and the Falls of the Neuse Reservoir watersheds shall not be interpreted to apply surface water quality standards set out in 15A NCAC 2B .0218(3)(e) through (3)(h) to waters designated in the nutrient management rules as WS-V except where: (i) the designation of WS-V is associated with a water supply intake used by an industry to supply drinking water for their employees; or (ii) standards set out in 15A NCAC 02B .0218(3)(e) through (3)(h) are violated at the upstream boundary of waters within those watersheds that are classified as WS-II, WS-III, or WS-IV. This section shall not be construed to alter the nutrient reduction requirements set out in 15A NCAC 2B .0262(5) or 15A NCAC 2B .0275(3).

SECTION 13.(a) Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.17. Tracking and report on permit processing times.

The Department of Environment and Natural Resources shall track the time required to process all permit applications in the One-Stop for Certain Environmental Permits Programs established by G.S. 143B-279.12 and the Express Permit and Certification Reviews established by G.S. 143B-279.13 that are received by the Department. The processing time tracked shall

include (i) the total processing time from when an initial permit application is received to issuance or denial of the permit and (ii) the processing time from when a complete permit application is received to issuance or denial of the permit. No later than March 1 of each year, the Department shall report to the Fiscal Research Division of the General Assembly and the Environmental Review Commission on the permit processing times required to be tracked pursuant to this section."

SECTION 13.(b) The Department of Environment and Natural Resources shall inventory all permits, licenses, and approvals issued by the Department. The Department shall provide a list of all permits, licenses, and approvals to the Environmental Review Commission no later than January 15, 2013, and shall recommend which of the permits, licenses, and approvals that are not subject to a reporting requirement on permit processing times should be subject to that requirement.

SECTION 14.(a) Section 3(b) of S.L. 2011-39 reads as rewritten:

"SECTION 3.(b) Wading Pool Fence Compliance. – From the effective date of this act through ~~July 1, 2012,~~ January 1, 2013, the Department of Environment and Natural Resources shall not require owners and operators of public swimming pools to comply with 15A NCAC 18A .2531(a)(7)."

SECTION 14.(b) This section becomes effective July 1, 2012.

SECTION 15.1. No later than July 1, 2013, the Commission for Public Health shall adopt rules to allow applicants for sanitary landfills the option to (i) apply for a permit to construct a five-year phase of landfill development and apply to amend the permit to construct subsequent five-year phases of landfill development; or (ii) apply for a permit to construct a 10-year phase of landfill development and apply to amend the permit to construct subsequent 10-year phases of landfill development, with a limited review of the permit five years after issuance of the initial permit and five years after issuance of each amendment for subsequent phases of development. No later than July 1, 2013, the Commission shall also adopt rules to allow applicants for permits for transfer stations the option to (i) apply for a permit with a five-year duration to construct and operate a transfer station; or (ii) apply for a permit with a 10-year duration to construct and operate a transfer station, with a limited review of the permit five years after issuance of the initial permit and five years after issuance of any amendment to the permit. In developing these rules, the Department of Environment and Natural Resources shall examine the current fee schedule for permits for sanitary landfills and transfer stations as set forth under G.S. 130A-295.8 and formulate recommendations for adjustments to the current fee schedule sufficient to address any additional demands associated with review of permits issued for 10-year phases of landfill development and the issuance permits with a duration of up to 10 years for transfer stations. The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before December 1, 2012. The rules required by this section shall not become effective until the fee schedule set forth under G.S. 130A-295.8 is amended as necessary to address any additional demands associated with review of permits issued for 10-year phases of landfill development and the issuance of permits with a duration of up to 10 years to construct and operate transfer stations.

SECTION 15.2.(a) G.S. 143B-437.013(a) reads as rewritten:

"(a) Port Enhancement Zone Defined. – A port enhancement zone is an area that meets all of the following conditions:

- (1) It is comprised of part or all of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census.
- (2) All of the area is located within 25 miles of a State port and is capable of being used to enhance port operations.
- (3) Every census tract and census block group that comprises the area has at least eleven percent (11%) of households with incomes of fifteen thousand dollars (\$15,000) or less."

SECTION 15.2.(b) This section is effective for taxable years beginning on or after January 1, 2013.

SECTION 16.1. G.S. 143-138(b4) reads as rewritten:

"(b4) Building rules 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. For the purposes of this subsection:

...

(3) A "farm building" shall include any structure used for the display and sale of produce, no more than 1,000 square feet in size, open to the public for no more than 180 days per year, and certified by the Department of Agriculture and Consumer Services as a Certified Roadside Farm Market."

SECTION 16.2. G.S. 130A-248(c1) reads as rewritten:

"(c1) The Commission shall adopt rules governing the sanitation of pushcarts and mobile food units. A permitted restaurant or commissary shall serve as a base of operations for a ~~pusheart or mobile food unit~~ pushcart. A mobile food unit shall meet all of the sanitation requirements of a permitted commissary or shall have a permitted restaurant or commissary that serves as its base of operation."

SECTION 17. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 3:48 p.m. on the 16th day of July, 2012.

Session Law 2012-188

H.B. 1021

AN ACT TO CLARIFY CERTAIN PROVISIONS OF THE JUSTICE REINVESTMENT ACT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 15A-1343.2(e) reads as rewritten:

"(e) Delegation to Probation Officer in Community Punishment. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety may require an offender sentenced to community punishment to do any of the following:

- (1) Perform up to 20 hours of community service, and pay the fee prescribed by law for this supervision.
- (2) Report to the offender's probation officer on a frequency to be determined by the officer.
- (3) Submit to substance abuse assessment, monitoring or treatment.
- (4) Submit to house arrest with electronic monitoring.
- (5) Submit to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month.
- (6) Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically.

- (7) Participate in an educational or vocational skills development program, including an evidence-based program.

If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

The probation officer may exercise authority delegated to him or her by the court pursuant to subsection (e) of this section after administrative review and approval by a Chief Probation Officer. The offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. However, the offender shall have no right of review if he or she has signed a written waiver of rights as required by this subsection. The Section may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court or the offender is determined to be high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (5) of this subsection may not be imposed unless the Section determines that the offender failed to comply with one or more of the conditions imposed by the court. Nothing in this section shall be construed to limit the availability of the procedures authorized under G.S. 15A-1345.

The Division shall adopt guidelines and procedures to implement the requirements of this section, which shall include a supervisor's approval prior to exercise of the delegation of authority authorized by this section. Prior to imposing confinement pursuant to subdivision (5) of this subsection, the probationer must first be presented with a violation report, with the alleged violations noted and advised of the right (i) to a hearing before the court on the alleged violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have relevant information concerning the alleged violations; and (iv) to examine any witnesses or evidence. ~~Upon the signing of a waiver of rights by the probationer, with both the probation officer and a supervisor signing as witnesses, the~~ The probationer may be confined for the period designated on the violation report upon the execution of a waiver of rights signed by the probationer and by two officers acting as witnesses. Those two witnesses shall be the probation officer and another officer to be designated by the Chief of the Community Corrections Section in written Division policy.

SECTION 1.(b) G.S. 15A-1343.2(f) reads as rewritten:

"(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Section of Community Corrections of the Division of Adult Correction of the Department of Public Safety may require an offender sentenced to intermediate punishment to do any of the following:

- (1) Perform up to 50 hours of community service, and pay the fee prescribed by law for this supervision.
- (2) Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically.
- (3) Submit to substance abuse assessment, monitoring or treatment.
- (4) Participate in an educational or vocational skills development program, including an evidence-based program.
- (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2).
- (6) Submit to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for

multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month.

- (7) Submit to house arrest with electronic monitoring.
- (8) Report to the offender's probation officer on a frequency to be determined by the officer.

If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

The probation officer may exercise authority delegated to him or her by the court pursuant to subsection (f) of this section after administrative review and approval by a Chief Probation Officer. The offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. However, the offender shall have no right of review if he or she has signed a written waiver of rights as required by this subsection. The Section may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court or the offender is determined to be high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the condition at subdivision (6) of this subsection may not be imposed unless the Section determines that the offender failed to comply with one or more of the conditions imposed by the court. Nothing in this section shall be construed to limit the availability of the procedures authorized under G.S. 15A-1345.

The Division shall adopt guidelines and procedures to implement the requirements of this section, which shall include a supervisor's approval prior to exercise of the delegation of authority authorized by this section. Prior to imposing confinement pursuant to subdivision (6) of this subsection, the probationer must first be presented with a violation report, with the alleged violations noted and advised of the right (i) to a hearing before the court on the alleged violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses who have relevant information concerning the alleged violations; and (iv) to examine any witnesses or evidence. ~~Upon the signing of a waiver of rights by the probationer, with both the probation officer and a supervisor signing as witnesses, the~~ The probationer may be confined for the period designated on the violation report upon the execution of a waiver of rights signed by the probationer and by two officers acting as witnesses. Those two witnesses shall be the probation officer and another officer to be designated by the Chief of the Community Corrections Section in written Division policy.

SECTION 2. G.S. 15A-1344(d2) reads as rewritten:

"(d2) Confinement in Response to Violation. – When a defendant under supervision for a felony conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a 90-day period of ~~confinement for a defendant under supervision for a felony conviction or a period of confinement of up to 90 days for a defendant under supervision for a misdemeanor conviction.~~ confinement. The court may not revoke probation unless the defendant has previously received a total of two periods of confinement under this subsection. A defendant may receive only two periods of confinement under this subsection. If the time remaining on the ~~defendant's~~ defendant's maximum imposed sentence on a defendant under supervision for a felony conviction is 90 days or less, then the term of confinement is for the remaining period of the sentence. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

When a defendant under supervision for a misdemeanor conviction has violated a condition of probation other than G.S. 15A-1343(b)(1) or G.S. 15A-1343(b)(3a), the court may impose a period of confinement of up to 90 days. The court may not revoke probation unless the defendant has previously received a total of two periods of confinement under this subsection. A defendant may receive only two periods of confinement under this subsection. Confinement under this section shall be credited pursuant to G.S. 15-196.1.

If a defendant is arrested for violation of a condition of probation and is lawfully confined to await a hearing for the violation, then the judge shall first credit any confinement time spent awaiting the hearing to any confinement imposed under this subsection; any excess time shall be credited to the activated sentence. The period of confinement imposed under this subsection on a defendant who is on probation for multiple offenses shall run concurrently on all cases related to the violation. Confinement shall be immediate unless otherwise specified by the court.

A defendant shall serve any confinement imposed under this subsection in the correctional facility where the defendant would have served an active sentence."

SECTION 3. G.S. 15A-1343(a1) reads as rewritten:

"(a1) Community and Intermediate Probation Conditions. – In addition to any conditions a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any one or more of the following conditions as part of a community or intermediate punishment:

- (1) House arrest with electronic monitoring.
- (2) Perform community ~~service~~-service and pay the fee prescribed by law for this supervision.
- (3) Submission to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month.
- (4) Substance abuse assessment, monitoring, or treatment.
- (5) Participation in an educational or vocational skills development program, including an evidence-based program.
- (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2)."

SECTION 4. G.S. 15A-1368.3(c) reads as rewritten:

"(c) Effect of Violation. – If the supervisee violates a condition, described in G.S. 15A-1368.4, at any time before the termination of the supervision period, the Commission may continue the supervisee on the existing supervision, with or without modifying the conditions, or if continuation or modification is not appropriate, may revoke post-release supervision as provided in G.S. 15A-1368.6 and reimprison the supervisee for a term consistent with the following requirements:

- (1) Supervisees who were convicted of an offense for which registration is required under Article 27A of Chapter 14 of the General Statutes and supervisees whose supervision is revoked for a violation of the required controlling condition under G.S. 15A-1368.4(b) or for absconding in violation of G.S. 15A-1368.4(e)(7a) will be returned to prison up to the time remaining on their maximum imposed terms. All other supervisees will be returned to prison for three months and may be returned for three months on each of two subsequent violations, after which supervisees who were Class B1 through E felons may be returned to prison up to the time remaining on their maximum imposed terms. Reimprisonment for a violation under this subdivision tolls the running of the period of supervised release, except that a supervisee shall not be rereleased on post-release supervision if the supervisee has served all the time remaining on the supervisee's maximum imposed term.
- (2) The supervisee shall not receive any credit for days on post-release supervision against the maximum term of imprisonment imposed by the court under G.S. 15A-1340.13.

- (3) Pursuant to Article 19A of Chapter 15, the Division of Adult Correction of the Department of Public Safety shall award a prisoner credit against any term of reimprisonment for all time spent in custody as a result of revocation proceedings under G.S. 15A-1368.6.
- (4) The prisoner is eligible to receive earned time credit against the maximum prison term as provided in G.S. 15A-1340.13(d) for time served in prison after the revocation."

SECTION 5. G.S. 90-95(h) reads as rewritten:

"(h) Notwithstanding any other provision of law, the following provisions apply except as otherwise provided in this Article.

- (1) Any person who sells, manufactures, delivers, transports, or possesses in excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as "trafficking in marijuana" and if the quantity of such substance involved:
 - a. Is in excess of 10 pounds, but less than 50 pounds, such person shall be punished as a Class H felon and shall be sentenced to a minimum term of 25 months and a maximum term of ~~30~~39 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);
 - b. Is 50 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of ~~42~~51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
 - c. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of ~~84~~93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - d. Is 10,000 pounds or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of ~~219~~222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).
- (1a) For the purpose of this subsection, a "dosage unit" shall consist of 3 grams of synthetic cannabinoid or any mixture containing such substance. Any person who sells, manufactures, delivers, transports, or possesses in excess of 50 dosage units of a synthetic cannabinoid or any mixture containing such substance, shall be guilty of a felony, which felony shall be known as "trafficking in synthetic cannabinoids," and if the quantity of such substance involved:
 - a. Is in excess of 50 dosage units, but less than 250 dosage units, such person shall be punished as a Class H felon and shall be sentenced to a minimum term of 25 months and a maximum term of ~~30~~39 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);
 - b. Is 250 dosage units or more, but less than 1250 dosage units, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of ~~42~~51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
 - c. Is 1250 dosage units or more, but less than 3750 dosage units, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of ~~84~~93 months

- in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- d. Is 3750 dosage units or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of ~~219~~222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).
- (2) Any person who sells, manufactures, delivers, transports, or possesses 1,000 tablets, capsules or other dosage units, or the equivalent quantity, or more of methaqualone, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as "trafficking in methaqualone" and if the quantity of such substance or mixture involved:
- a. Is 1,000 or more dosage units, or equivalent quantity, but less than 5,000 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of ~~42~~51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
- b. Is 5,000 or more dosage units, or equivalent quantity, but less than 10,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of ~~84~~93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- c. Is 10,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of ~~219~~222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).
- (3) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or any coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, and any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocainized coca leaves or any extraction of coca leaves which does not contain cocaine) or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as "trafficking in cocaine" and if the quantity of such substance or mixture involved:
- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of ~~42~~51 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
- b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of ~~84~~93 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
- c. Is 400 grams or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of ~~219~~222 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).

- (3a) Repealed by Session Laws 1999-370, s. 1, effective December 1, 1999.
- (3b) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of methamphetamine or any mixture containing such substance shall be guilty of a felony which felony shall be known as "trafficking in methamphetamine" and if the quantity of such substance or mixture involved:
- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of ~~84~~93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of ~~117~~120 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
 - c. Is 400 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of 225 months and a maximum term of ~~279~~282 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).
- (3c) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of amphetamine or any mixture containing such substance shall be guilty of a felony, which felony shall be known as "trafficking in amphetamine", and if the quantity of such substance or mixture involved:
- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class H felon and shall be sentenced to a minimum term of 25 months and a maximum term of ~~30~~39 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);
 - b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of ~~42~~51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
 - c. Is 400 grams or more, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of ~~117~~120 months in the State's prison and shall be fined at least one hundred thousand dollars (\$100,000).
- (3d) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of MDPV or any mixture containing such substance shall be guilty of a felony, which felony shall be known as "trafficking in MDPV," and if the quantity of such substance or mixture involved:
- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of ~~84~~93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of ~~117~~120 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);

- c. Is 400 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of 225 months and a maximum term of ~~279-282~~ months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).
- (3e) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of mephedrone or any mixture containing such substance shall be guilty of a felony, which felony shall be known as "trafficking in mephedrone," and if the quantity of such substance or mixture involved:
- a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of ~~84-93~~ months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of ~~117-120~~ months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
 - c. Is 400 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of 225 months and a maximum term of ~~279-282~~ months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).
- (4) Any person who sells, manufactures, delivers, transports, or possesses four grams or more of opium or opiate, or any salt, compound, derivative, or preparation of opium or opiate (except apomorphine, nalbuphine, analoxone and naltrexone and their respective salts), including heroin, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as "trafficking in opium or heroin" and if the quantity of such controlled substance or mixture involved:
- a. Is four grams or more, but less than 14 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of ~~84-93~~ months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - b. Is 14 grams or more, but less than 28 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of 90 months and a maximum term of ~~117-120~~ months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);
 - c. Is 28 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of 225 months and a maximum term of ~~279-282~~ months in the State's prison and shall be fined not less than five hundred thousand dollars (\$500,000).
- (4a) Any person who sells, manufactures, delivers, transports, or possesses 100 tablets, capsules, or other dosage units, or the equivalent quantity, or more, of Lysergic Acid Diethylamide, or any mixture containing such substance, shall be guilty of a felony, which felony shall be known as "trafficking in Lysergic Acid Diethylamide". If the quantity of such substance or mixture involved:
- a. Is 100 or more dosage units, or equivalent quantity, but less than 500 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of ~~42-51~~ months in the State's prison

- and shall be fined not less than twenty-five thousand dollars (\$25,000);
- b. Is 500 or more dosage units, or equivalent quantity, but less than 1,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of ~~84~~93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - c. Is 1,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of ~~219~~222 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).
- (4b) Any person who sells, manufactures, delivers, transports, or possesses 100 or more tablets, capsules, or other dosage units, or 28 grams or more of 3,4-methylenedioxyamphetamine (MDA), including its salts, isomers, and salts of isomers, or 3,4-methylenedioxymethamphetamine (MDMA), including its salts, isomers, and salts of isomers, or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as "trafficking in MDADMA." If the quantity of the substance or mixture involved:
- a. Is 100 or more tablets, capsules, or other dosage units, but less than 500 tablets, capsules, or other dosage units, or 28 grams or more, but less than 200 grams, the person shall be punished as a Class G felon and shall be sentenced to a minimum term of 35 months and a maximum term of ~~42~~51 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);
 - b. Is 500 or more tablets, capsules, or other dosage units, but less than 1,000 tablets, capsules, or other dosage units, or 200 grams or more, but less than 400 grams, the person shall be punished as a Class F felon and shall be sentenced to a minimum term of 70 months and a maximum term of ~~84~~93 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);
 - c. Is 1,000 or more tablets, capsules, or other dosage units, or 400 grams or more, the person shall be punished as a Class D felon and shall be sentenced to a minimum term of 175 months and a maximum term of ~~219~~222 months in the State's prison and shall be fined not less than two hundred fifty thousand dollars (\$250,000).
- (5) Except as provided in this subdivision, a person being sentenced under this subsection may not receive a suspended sentence or be placed on probation. The sentencing judge may reduce the fine, or impose a prison term less than the applicable minimum prison term provided by this subsection, or suspend the prison term imposed and place a person on probation when such person has, to the best of his knowledge, provided substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals if the sentencing judge enters in the record a finding that the person to be sentenced has rendered such substantial assistance.
- (6) Sentences imposed pursuant to this subsection shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder."

SECTION 6. G.S. 15A-1368.1 reads as rewritten:

"§ **15A-1368.1. Applicability of Article 84A.**

This Article applies to all felons sentenced to an active punishment under Article 81B of this Chapter, Chapter or G.S. 90-95(h), but does not apply to felons in Class A and Class B1 sentenced to life imprisonment without parole. Prisoners subject to Articles 85 and 85A of this Chapter are excluded from this Article's coverage."

SECTION 7. G.S. 143B-720 is amended by adding a new subsection to read:

"(f) The Commission may conduct the following proceedings by videoconference:

(1) All hearings regarding the revocation or termination of post-release supervision and all hearings regarding revocation, termination, or suspension of parole.

(2) All hearings regarding criminal contempt for willful refusal to accept post-release supervision or comply with the terms of post-release supervision by a prisoner whose offense requiring post-release supervision is a reportable conviction subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes."

SECTION 8. Section 4 of this act is effective when it becomes law and applies to supervisees violating the conditions of post-release supervision on or after that date. Sections 5 and 6 of this act become effective December 1, 2012, and apply to offenses committed on or after that date. Section 7 of this act becomes effective December 1, 2012. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 3:50 p.m. on the 16th day of July, 2012.

Session Law 2012-189

H.B. 1181

AN ACT TO AUTHORIZE THE REVENUE LAWS STUDY COMMITTEE TO STUDY WHETHER MUNICIPALITIES SHOULD HAVE THE AUTHORITY TO LEVY A LOCAL OPTION SALES TAX FOR BEACH NOURISHMENT AND TO STUDY THE TAXATION AND VALUATION OF LEASEHOLD INTERESTS IN EXEMPT REAL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. The Revenue Laws Study Committee may study whether municipalities should be granted the authority to levy a local option sales tax for the purpose of providing dedicated funding for beach nourishment and other natural resources preservation and report its findings, together with any recommended legislation, to the 2013 Regular Session of the General Assembly upon its convening.

SECTION 2. The Revenue Laws Study Committee may study the taxation and valuation of leasehold interests in exempt real property and report its findings, together with any recommended legislation, to the 2013 Regular Session of the General Assembly upon its convening.

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

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 3:52 p.m. on the 16th day of July, 2012.

Session Law 2012-190

S.B. 821

AN ACT TO (1) DIRECT THE DIRECTOR OF THE DIVISION OF MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, THE EXECUTIVE DIRECTOR OF THE WILDLIFE RESOURCES COMMISSION, AND THE DEPUTY SECRETARY FOR TRANSIT OF THE DEPARTMENT OF TRANSPORTATION TO JOINTLY STUDY FEES ASSOCIATED WITH THE ISSUANCE OF COASTAL FISHING LICENSES AND THE NUMBERING AND TITLING OF VESSELS; (2) DIRECT THE EXECUTIVE DIRECTOR OF THE WILDLIFE RESOURCES COMMISSION, THE DIRECTOR OF THE DIVISION OF MARINE FISHERIES OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, AND THE COMMISSIONER OF AGRICULTURE TO JOINTLY STUDY THE REORGANIZATION OF FISHERIES MANAGEMENT IN THE STATE; (3) MAKE IT UNLAWFUL TO TAKE MENHADEN OR ATLANTIC THREAD HERRING WITH A PURSE SEINE NET DEPLOYED BY A MOTHER SHIP AND ONE OR MORE RUNNER BOATS IN COASTAL FISHING WATERS; (4) AMEND THE MARINE FISHERIES COMMISSION ADVISORY COMMITTEES; AND (5) PROVIDE THAT A SUPERMAJORITY OF THE MARINE FISHERIES COMMISSION IS REQUIRED TO OVERRIDE A RECOMMENDATION OF THE DIVISION OF MARINE FISHERIES REGARDING OVERFISHING OR REBUILDING OF FISH STOCKS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) It is the intent of the General Assembly to provide funding for the dredging and maintenance of the State's coastal inlets from fees charged to those who make use of the inlets.

SECTION 1.(b) In order to identify possible sources of funds for the purposes set out in subsection (a) of this section, the Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources, the Executive Director of the Wildlife Resources Commission, and the Deputy Secretary for Transit of the Department of Transportation shall jointly study the fees associated with the issuance of coastal fishing licenses pursuant to Chapter 113 of the General Statutes and the numbering and titling of vessels pursuant to Chapter 75A of the General Statutes.

- (1) For coastal fishing licenses, the Director and Executive Director shall specifically:
 - a. Identify all types of fishing licenses issued for the purpose of taking fish in coastal fishing waters, both recreational and commercial.
 - b. Identify the fees associated with these licenses.
 - c. Identify the analogous licenses issued and fees charged by states with fisheries profiles similar to those of North Carolina, including at least South Carolina and Virginia.
 - d. Recommend several levels of increases in the license fees and calculate the amount of revenue that would be generated by the different levels of increase.
 - e. Identify any limitations under State or federal law on the use of license fees for purposes not related to the management of marine fisheries.
- (2) For the numbering and titling of vessels, the Executive Director shall specifically:
 - a. Identify all requirements for the numbering and titling of vessels.
 - b. Determine whether there is a method for differentiating between vessels that are used predominantly in coastal fishing waters versus those that are used predominantly in inland fishing waters.

- c. Identify the fees associated with the numbering and titling of vessels.
 - d. Identify the analogous vessel numbering and titling requirements and fees charged by states with coastal boating profiles similar to those of North Carolina, including at least South Carolina and Virginia.
 - e. Recommend several levels of increases in the fees associated with the numbering and titling of vessels and calculate the amount of revenue that would be generated by the different levels of increase.
 - f. Identify any limitations under State or federal law on the use of fees associated with the numbering and titling of vessels.
- (3) The Director and the Executive Director shall examine all other sources of funding, including the gas tax.

SECTION 1.(c) The Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources, the Executive Director of the Wildlife Resources Commission, and the Deputy Secretary for Transit of the Department of Transportation shall jointly submit a report on the study required by subsection (b) of this section to the Legislative Research Commission's Committee on Marine Fisheries no later than September 1, 2012.

SECTION 2.(a) The Executive Director of the Wildlife Resources Commission, the Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources, and the Commissioner of Agriculture shall, in consultation with various user groups, study the current organization of the State's fisheries management agencies and consider whether these agencies might be reorganized to provide for more efficient, productive, and enjoyable uses of the State's fisheries resources.

SECTION 2.(b) In conducting this study, the Executive Director, the Director, and the Commissioner shall specifically consider all of the following:

- (1) The efficient and effective transfer of statutory authority, powers, duties, and functions, including, but not limited to, rule making, licensing, and the rendering of findings, orders, and adjudications.
- (2) The efficient and effective transfer and consolidation of records, personnel, property, and unexpended balances of appropriations, allocations, or other funds. This component of the study shall specifically identify any areas of overlap between agency programs or personnel.
- (3) The uninterrupted and unimpaired continuation of all services provided by the agencies, rules adopted or implemented by the agencies, contracts or other obligations entered into by the agencies, and proceedings to which any agency is a party.
- (4) All statutory, rule, and policy changes that would be necessary to reorganize fisheries management in the State.
- (5) Positions or duties regarding fisheries resource management currently carried out by the Marine Fisheries Commission or the Division of Marine Fisheries of the Department of Environment and Natural Resources that are within the scope of the overall mission of the Department of Agriculture and Consumer Services.
- (6) Any other issues necessary for the potential reorganization of fisheries management in the State.

SECTION 2.(c) The Executive Director, the Director, and the Commissioner shall jointly report on the study conducted pursuant to subsections (a) and (b) of this section to the Legislative Research Commission's Committee on Marine Fisheries no later than October 1, 2012.

SECTION 3.(a) G.S. 113-187 reads as rewritten:**"§ 113-187. Penalties for violations of Subchapter and rules.**

(a) Any person who participates in a commercial fishing operation conducted in violation of any provision of this Subchapter and its implementing rules or in an operation in connection with which any vessel is used in violation of any provision of this Subchapter and its implementing rules is guilty of a Class A1 misdemeanor.

(b) Any owner of a vessel who knowingly permits it to be used in violation of any provision of this Subchapter and its implementing rules is guilty of a Class A1 misdemeanor.

(c) Any person in charge of a commercial fishing operation conducted in violation of any provision of this Subchapter and its implementing rules or in charge of any vessel used in violation of any provision of this Subchapter and its implementing rules is guilty of a Class A1 misdemeanor.

(d) Any person in charge of a commercial fishing operation conducted in violation of the following provisions of this Subchapter or the following rules of the Marine Fisheries Commission; and any person in charge of any vessel used in violation of the following provisions of the Subchapter or the following rules, shall be guilty of a Class A1 misdemeanor. The violations of the statute or the rules for which the penalty is mandatory are:

- (1) Taking or attempting to take, possess, sell, or offer for sale any oysters, mussels, or clams taken from areas closed by statute, rule, or proclamation because of suspected pollution.
- (2) Taking or attempting to take or have in possession aboard a vessel, shrimp taken by the use of a trawl net, in areas not opened to shrimping, pulled by a vessel not showing lights required by G.S. 75A-6 after sunset and before sunrise.
- (3) Using a trawl net in any coastal fishing waters closed by proclamation or rule to trawl nets.
- (4) Violating the provisions of a special permit or gear license issued by the Department.
- (5) Using or attempting to use any trawl net, long haul seine, swipe net, mechanical methods for oyster or clam harvest or dredge in designated primary nursery areas.

(e) Any person who takes menhaden or Atlantic thread herring by the use of a purse seine net deployed by a mother ship and one or more runner boats in coastal fishing waters is guilty of a Class A1 misdemeanor."

SECTION 3.(b) S.L. 2007-320 is repealed.

SECTION 4.(a) G.S. 143B-289.57 reads as rewritten:

"§ 143B-289.57. Marine Fisheries Commission Advisory Committees established; members; selection; duties.

...

(b) The Chair of the Commission shall appoint the following standing advisory committees:

- (1) The Finfish Committee, which shall consider matters concerning finfish.
- (2) ~~The Crustacean Committee, which shall consider matters concerning shrimp and crabs.~~
- (3) ~~The Shellfish Committee, which shall consider matters concerning oysters, clams, scallops, and other molluscan shellfish.~~
- (3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and crabs.
- (4) The Habitat and Water Quality Committee, which shall consider matters concerning habitat and water quality that may affect coastal fisheries resources.

...

(e) ~~The Chair of the Commission shall appoint a regional advisory committee for each of the three coastal regions designated in G.S. 143B-289.54(b) and shall appoint a regional advisory committee for that part of the State that is not included in the three coastal regions. Northern Regional Advisory Committee, encompassing areas from the Virginia line south through Hyde and Pamlico Counties and any counties to the west, and a Southern Regional Advisory Committee, encompassing areas from Carteret County south to the South Carolina line and any counties to the west. In making appointments to regional advisory committees, the Chair of the Commission shall ensure that both commercial and recreational fishing interests are fairly represented.~~"

SECTION 4.(b) G.S. 113-200 reads as rewritten:

"§ 113-200. **Fishery Resource Grant Program.**

...
(e1) Grants Committee. – The Grants Committee shall consist of eleven members as follows:

- (1) Three employees of the Sea Grant College Program, appointed by the Director of the Sea Grant College Program.
- (2) Two employees of the Division of Marine Fisheries, appointed by the Fisheries Director.
- (3) Two members of the Marine Fisheries Commission, appointed by the Chair of the Marine Fisheries Commission.
- (4) ~~One member~~Two members of the ~~Northeast-Northern~~ Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the ~~Northeast-Northern~~ Regional Advisory Committee.
- (5) ~~One member of the Central Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Central Regional Advisory Committee.~~
- (6) ~~One member~~Two members of the ~~Southeast-Southern~~ Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the ~~Southeast-Southern~~ Regional Advisory Committee.
- (7) ~~One member of the Inland Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Inland Regional Advisory Committee.~~

...."

SECTION 4.(c) The terms of the members currently serving on the Crustacean, Shellfish, and the four regional advisory committees (Northeast, Southeast, Central, and Inland) shall expire on June 30, 2012. Effective July 1, 2012, the Chair of the Marine Fisheries Advisory Commission shall appoint no more than 11 members to the Northern Regional Advisory Committee and the Southern Regional Advisory Committee, established pursuant to subsection (e) of G.S. 143B-289.57, as amended by this section.

SECTION 5. G.S. 143B-289.52 reads as rewritten:

"§ 143B-289.52. **Marine Fisheries Commission – powers and duties.**

...
(e1) A supermajority of the Commission shall be six members. A supermajority shall be necessary to override recommendations from the Division of Marine Fisheries regarding measures needed to end overfishing or to rebuild overfished stocks."

SECTION 6. Sections 4(a) and 4(b) of this act become effective July 1, 2012. Sections 3(a) and 3(b) of this act become effective January 1, 2013, and Section 3(a) applies to offenses committed on or after that date. The remaining sections of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 3:54 p.m. on the 16th day of July, 2012.

Session Law 2012-191

H.B. 1023

AN ACT TO ALLOW FOR EXPUNCTION OF NONVIOLENT FELONIES OR NONVIOLENT MISDEMEANORS AFTER FIFTEEN YEARS FOR PERSONS WHO HAVE HAD NO OTHER CONVICTIONS FOR FELONIES OR MISDEMEANORS OTHER THAN TRAFFIC VIOLATIONS UNDER THE LAWS OF THE UNITED STATES, THIS STATE, OR ANY OTHER JURISDICTION, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION.

The General Assembly of North Carolina enacts:

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

"§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.

(a) For purposes of this section, the term "nonviolent misdemeanor" or "nonviolent felony" means any misdemeanor or felony except the following:

- (1) A Class A through G felony or a Class A1 misdemeanor.
- (2) An offense that includes assault as an essential element of the offense.
- (3) An offense requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.
- (4) Any of the following sex-related or stalking offenses: G.S. 14-27.7A(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18, 14-277.3, 14-277.3A, 14-321.1.
- (5) Any felony offense in Chapter 90 of the General Statutes where the offense involves methamphetamines, heroin, or possession with intent to sell or deliver or sell and deliver cocaine.
- (6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for which punishment was determined pursuant to G.S. 14-3(c).
- (7) An offense under G.S. 14-401.16.
- (8) Any felony offense in which a commercial motor vehicle was used in the commission of the offense.

(b) Notwithstanding any other provision of law, if the person is convicted of more than one nonviolent felony or nonviolent misdemeanor in the same session of court and none of the nonviolent felonies or nonviolent misdemeanors are alleged to have occurred after the person had already been served with criminal process for the commission of a nonviolent felony or nonviolent misdemeanor, then the multiple nonviolent felony or nonviolent misdemeanor convictions shall be treated as one nonviolent felony or nonviolent misdemeanor conviction under this section, and the expunction order issued under this section shall provide that the multiple nonviolent felony convictions or nonviolent misdemeanor convictions shall be expunged from the person's record in accordance with this section.

(c) A person may file a petition, in the court where the person was convicted, for expunction of a nonviolent misdemeanor or nonviolent felony conviction from the person's criminal record if the person has no other misdemeanor or felony convictions, other than a traffic violation, and was convicted of a nonviolent misdemeanor or nonviolent felony that is eligible pursuant to subsection (b) of this section. The petition shall not be filed earlier than 15 years after the date of the conviction or when any active sentence, period of probation, and post-release supervision has been served, 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 moral character since the date of conviction for the nonviolent misdemeanor or nonviolent felony and has not been convicted of any other 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) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
- (4) An application on a form approved by the Administrative Office of the Courts requesting and authorizing a name-based State and national criminal history record check by the Department of Justice using any information required by the Administrative Office of the Courts to identify the individual, a search by the Department of Justice for any outstanding warrants on pending criminal cases, and a search of the confidential record of expunctions maintained by the Administrative Office of the Courts. The application shall be forwarded to the Department of Justice and to the Administrative Office of the Courts, which shall conduct the searches and report their findings to the court.
- (5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner are outstanding.

Upon filing of the petition, 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 30 days thereafter in which to file any objection thereto and shall be duly notified as to the date of the hearing of the petition. Upon good cause shown, the court may grant the district attorney an additional 30 days to file objection to the petition. The district attorney shall make his or her best efforts to contact the victim, if any, to notify the victim of the request for expunction prior to the date of the hearing.

The presiding judge is authorized to call upon a probation officer for any additional investigation or verification of the petitioner's conduct since the conviction. The court shall review any other information the court deems relevant, including, but not limited to, affidavits or other testimony provided by law enforcement officers, district attorneys, and victims of crimes committed by the petitioner.

If the court, after hearing, finds that the petitioner has not previously been granted an expunction under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, or 15A-145.4; the petitioner has remained of good moral character; the petitioner has no outstanding warrants or pending criminal cases; the petitioner has no other felony or misdemeanor convictions other than a traffic violation; the petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner; and the petitioner was convicted of an offense eligible for expunction under this section and was convicted of, and completed any sentence received for, the nonviolent misdemeanor or nonviolent felony at least 15 years prior to the filing of the petition, it may order that such person be restored, in the contemplation of the law, to the status the person occupied before such arrest or indictment or information. If the court denies the petition, the order shall include a finding as to the reason for the denial.

(d) No person as to whom an order has been entered pursuant to subsection (c) of this section shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of that person's failure to recite or acknowledge the arrest, indictment, information, trial, or conviction. Persons pursuing certification under the provisions of Chapter 17C or 17E of the General Statutes, however, shall disclose any and all convictions to the certifying Commission, regardless of whether or not the convictions were expunged pursuant to the provisions of this section.

Persons required by State law to obtain a criminal history record check on a prospective employee shall not be deemed to have knowledge of any convictions expunged under this section.

(e) The court shall also order that the conviction be expunged from the records of the court and direct all law enforcement agencies bearing record of the same to expunge their records of the conviction. The clerk shall notify State and local agencies of the court's order, as provided in G.S. 15A-150.

(f) Any other applicable State or local government agency shall expunge from its records entries made as a result of the conviction ordered expunged under this section upon receipt from the petitioner of an order entered pursuant to this section. The agency shall also reverse any administrative actions taken against a person whose record is expunged under this section as a result of the charges or convictions expunged. This subsection shall not apply to the Department of Justice for DNA records and samples stored in the State DNA Database and the State DNA Databank or to fingerprint records.

(g) A person who files a petition for expunction of a criminal record under this section must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the time the petition is filed. Fees collected under this subsection shall be deposited in the General Fund. This subsection does not apply to petitions filed by an indigent."

SECTION 2. G.S. 15A-145.4 reads as rewritten:

"§ 15A-145.4. Expunction of records for first offenders who are under 18 years of age at the time of the commission of a nonviolent felony.

(a) For purposes of this section, the term "nonviolent felony" means any felony except the following:

- (1) A Class A through G felony.
- (2) A felony that includes assault as an essential element of the offense.
- (3) A felony that is an offense ~~for which the convicted offender must register under~~ requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes. Statutes, whether or not the person is currently required to register.
- (4) ~~A felony that is an offense that did not require registration under Article 27A of Chapter 14 of the General Statutes at the time of the commission of the offense but does require registration on the date the petition to expunge the offense would be filed.~~
- (5)(4) ~~A felony charged for any of~~ Any felony offense under the following sex-related or stalking offenses: G.S. 14-27.7A(b), 14-190.6, 14-190.7, 14-190.8, 14-202, 14-208.11A, 14-208.18, 14-277.3, 14-277.3A, 14-321.1.
- (6)(5) ~~Any felony offense charged pursuant to~~ in Chapter 90 of the General Statutes where the offense involves methamphetamines, heroin, or possession with intent to sell or deliver or sell and deliver cocaine; except that if a prayer for judgment continued has been entered for an offense classified as either a Class G, H, or I felony, the prayer for judgment continued shall be subject to expunction under the procedures in this section.
- (7)(6) ~~A felony offense charged pursuant to~~ under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any felony offense charged as a felony for which punishment was determined pursuant to G.S. 14-3(c).
- (8)(7) ~~A felony offense charged pursuant to~~ under G.S. 14-401.16.
- (9)(8) ~~A~~ Any felony offense in which a commercial motor vehicle was used in the commission of the offense.

(b) Notwithstanding any other provision of law, if the person is convicted of more than one nonviolent felony in the same session of court and none of the nonviolent felonies are alleged to have occurred after the person had already been ~~charged and arrested~~ served with criminal process for the commission of a nonviolent felony, then the multiple nonviolent felony convictions shall be treated as one nonviolent felony conviction under this section, and the expunction order issued under this section shall provide that the multiple nonviolent felony convictions shall be expunged from the person's record in accordance with this section.

(c) Whenever any person who had not yet attained the age of 18 years at the time of the commission of the offense 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 a nonviolent felony, the person may file a petition in the court where the person was convicted for expunction of the nonviolent felony from the person's criminal record. The petition shall not be filed earlier than four years after the date of the conviction or when any active sentence, period of probation, and post-release supervision has been served, whichever occurs later. The person shall also perform at least 100 hours of community service, preferably related to the conviction, before filing a petition for expunction under this section. The petition shall contain the following:

- (1) An affidavit by the petitioner that the petitioner has been of good moral character since the date of conviction of the nonviolent felony in question and has not been convicted of any other felony or any 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) A statement that the petition is a motion in the cause in the case wherein the petitioner was convicted.
- (4) An application on a form approved by the Administrative Office of the Courts requesting and authorizing (i) a State and national criminal history record check by the Department of Justice using any information required by the Administrative Office of the Courts to identify the individual; (ii) a search by the Department of Justice for any outstanding warrants or pending criminal cases; and (iii) a search of the confidential record of expunctions maintained by the Administrative Office of the Courts. The application shall be forwarded to the Department of Justice and to the Administrative Office of the Courts, which shall conduct the searches and report their findings to the court.
- (5) An affidavit by the petitioner that no restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner are outstanding.
- (6) An affidavit by the petitioner that the petitioner has performed at least 100 hours of community service since the conviction for the nonviolent felony. The affidavit shall include a list of the community services performed, a list of the recipients of the services, and a detailed description of those services.
- (7) An affidavit by the petitioner that the petitioner possesses a high school diploma, a high school graduation equivalency certificate, or a General Education Development degree.

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 30 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 district attorney shall make his or her best efforts to contact the victim, if any, to notify the victim of the request for expunction prior to the date of the hearing.

(d) The court in which the petition was filed shall take the following steps and shall consider the following issues in rendering a decision upon a petition for expunction of records of a nonviolent felony under this section:

- (1) Call upon a probation officer for additional investigation or verification of the petitioner's conduct during the four-year period since the date of conviction of the nonviolent felony in question.

- (2) Review the petitioner's juvenile record, ensuring that the petitioner's juvenile records remain separate from adult records and files and are withheld from public inspection as provided under Article 30 of Chapter 7B of the General Statutes.
- (3) Review the amount of restitution made by the petitioner to the victim of the nonviolent felony to be expunged and give consideration to whether or not restitution was paid in full.
- (4) Review any other information the court deems relevant, including, but not limited to, affidavits or other testimony provided by law enforcement officers, district attorneys, and victims of nonviolent felonies committed by the petitioner.

(e) The court may order that the person be restored, in the contemplation of the law, to the status the person occupied before the arrest or indictment or information if the court finds all of the following after a hearing:

- (1) The petitioner has remained of good moral character and has been free of conviction of any felony or misdemeanor, other than a traffic violation, for four years from the date of conviction of the nonviolent felony in question or any active sentence, period of probation, or post-release supervision has been served, whichever is later.
- (2) The petitioner 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.
- (3) The petitioner has no outstanding warrants or pending criminal cases.
- (4) The petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution entered against the petitioner.
- (5) The petitioner was less than 18 years old at the time of the commission of the offense in question.
- (6) The petitioner has performed at least 100 hours of community service since the time of the conviction and possesses a high school diploma, a high school graduation equivalency certificate, or a General Education Development degree.
- (7) The search of the confidential records of expunctions conducted by the Administrative Office of the Courts shows that the petitioner has not been previously granted an expunction.

(f) No person as to whom an order has been entered pursuant to subsection (e) of this section shall be held thereafter under any provision of any laws to be guilty of perjury or otherwise giving a false statement by reason of that person's failure to recite or acknowledge the arrest, indictment, information, trial, or conviction. Persons pursuing certification under the provisions of Chapter 17C or 17E of the General Statutes, however, shall disclose any and all felony convictions to the certifying Commission regardless of whether or not the felony convictions were expunged pursuant to the provisions of this section.

Persons required by State law to obtain a criminal history record check on a prospective employee shall not be deemed to have knowledge of any convictions expunged under this section.

(g) The court shall also order that the nonviolent felony conviction be expunged from the records of the court and direct all law enforcement agencies bearing record of the same to expunge their records of the conviction. The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150.

(h) Any other applicable State or local government agency shall expunge from its records entries made as a result of the conviction ordered expunged under this section. The agency shall also reverse any administrative actions taken against a person whose record is expunged under this section as a result of the charges or convictions expunged. This subsection

shall not apply to the Department of Justice for DNA records and samples stored in the State DNA Database and the State DNA Databank.

(i) Any person eligible for expunction of a criminal record under this section shall be notified about the provisions of this section by the probation officer assigned to that person. If no probation officer is assigned, notification of the provisions of this section shall be provided by the court at the time of the conviction of the felony which is to be expunged under this section."

SECTION 3. G.S. 15A-145(d1) is repealed.

SECTION 4. G.S. 15A-146 reads as rewritten:

"§ 15A-146. Expunction of records when charges are dismissed or there are findings of not guilty.

(a) If any person is charged with a crime, either a misdemeanor or a felony, or was charged with an infraction under G.S. 18B-302(i) prior to December 1, 1999, and the charge is dismissed, or a finding of not guilty or not responsible is entered, that person may apply to the court of the county where the charge was brought for an order to expunge from all official records any entries relating to his apprehension or trial. The court shall hold a hearing on the application and, upon finding that the person had not previously received an expungement under this section, ~~G.S. 15A-145, G.S. 15A-145.1, 15A-145.2, or 15A-145.3,~~ 15A-145.3, 15A-145.4, or 15A-145.5, and that the person had not previously been convicted of any felony under the laws of the United States, this State, or any other state, the court shall order the expunction. No person as to whom such an order has been entered shall be held thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made for any purpose, by reason of his failure to recite or acknowledge any expunged entries concerning apprehension or trial.

(a1) Notwithstanding subsection (a) of this section, if a person is charged with multiple offenses and all the charges are dismissed, or findings of not guilty or not responsible are made, then a person may apply to have each of those charges expunged if the offenses occurred within the same 12-month period of time or if the charges are dismissed or findings are made at the same term of court. Unless circumstances otherwise clearly provide, the phrase "term of court" shall mean one week for superior court and one day for district court. There is no requirement that the multiple offenses arise out of the same transaction or occurrence or that the multiple offenses were consolidated for judgment. The court shall hold a hearing on the application. If the court finds (i) that the person had not previously received an expungement under this subsection, or that any previous expungement received under this subsection occurred prior to October 1, 2005 and was for an offense that occurred within the same 12-month period of time, or was dismissed or findings made at the same term of court, as the offenses that are the subject of the current application, (ii) that the person had not previously received an expungement under ~~G.S. 15A-145, 15A-145.1, 15A-145.2, or 15A-145.3,~~ 15A-145.3, 15A-145.4, or 15A-145.5, and (iii) that the person had not previously been convicted of any felony under the laws of the United States, this State, or any other state, the court shall order the expunction. No person as to whom such an order has been entered shall be held thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made for any purpose, by reason of his failure to recite or acknowledge any expunged entries concerning apprehension or trial.

(b) The court may also order that the said entries, including civil revocations of drivers licenses as a result of the underlying charge, shall be expunged from the records of the court, and direct all law-enforcement agencies, the Division of Adult Correction of the Department of Public Safety, the Division of Motor Vehicles, and any other State or local government agencies identified by the petitioner as bearing record of the same to expunge their records of the entries, including civil revocations of drivers licenses as a result of the underlying charge being expunged. This subsection does not apply to civil or criminal charges based upon the civil revocation, or to civil revocations under G.S. 20-16.2. The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150. The clerk shall forward a

certified copy of the order to the Division of Motor Vehicles for the expunction of a civil revocation provided the underlying criminal charge is also expunged. The civil revocation of a drivers license shall not be expunged prior to a final disposition of any pending civil or criminal charge based upon the civil revocation. The costs of expunging the records, as required under G.S. 15A-150, shall not be taxed against the petitioner.

(b1) Any person entitled to expungement under this section may also apply to the court for an order expunging DNA records when the person's case has been dismissed by the trial court and the person's DNA record or profile has been included in the State DNA Database and the person's DNA sample is stored in the State DNA Databank. A copy of the application for expungement of the DNA record or DNA sample shall be served on the district attorney for the judicial district in which the felony charges were brought not less than 20 days prior to the date of the hearing on the application. If the application for expungement is granted, a certified copy of the trial court's order dismissing the charges shall be attached to an order of expungement. The order of expungement shall include the name and address of the defendant and the defendant's attorney and shall direct the SBI to send a letter documenting expungement as required by subsection (b2) of this section.

(b2) Upon receiving an order of expungement entered pursuant to subsection (b1) of this section, the SBI shall purge the DNA record and all other identifying information from the State DNA Database and the DNA sample stored in the State DNA Databank covered by the order, except that the order shall not apply to other offenses committed by the individual that qualify for inclusion in the State DNA Database and the State DNA Databank. A letter documenting expungement of the DNA record and destruction of the DNA sample shall be sent by the SBI to the defendant and the defendant's attorney at the address specified by the court in the order of expungement.

(c) The clerk shall notify State and local agencies of the court's order as provided in G.S. 15A-150."

SECTION 5. G.S. 15A-151(a) reads as rewritten:

"§ 15A-151. **Confidential agency files; exceptions to expunction.**

(a) The Administrative Office of the Courts shall maintain a confidential file containing the names of those people for whom it received a notice under G.S. 15A-150. The information contained in the file may be disclosed only as follows:

- (1) To a judge of the General Court of Justice of North Carolina for the purpose of ascertaining whether a person charged with an offense has been previously granted a discharge or an expunction.
- (2) To a person requesting confirmation of the person's own discharge or expunction, as provided in G.S. 15A-152.
- (3) To the General Court of Justice of North Carolina in response to a subpoena or other court order issued pursuant to a civil action under G.S. 15A-152.
- (4) If the criminal record was expunged pursuant to ~~G.S. 15A-145.4~~, G.S. 15A-145.4 or G.S. 15A-145.5, to State and local law enforcement agencies for employment purposes only.
- (5) If the criminal record was expunged pursuant to ~~G.S. 15A-145.4~~, G.S. 15A-145.4 or G.S. 15A-145.5, to the North Carolina Criminal Justice Education and Training Standards Commission for certification purposes only.
- (6) If the criminal record was expunged pursuant to ~~G.S. 15A-145.4~~, G.S. 15A-145.4 or G.S. 15A-145.5, to the North Carolina Sheriffs' Education and Training Standards Commission for certification purposes only."

SECTION 6. G.S. 17C-13(b) reads as rewritten:

"(b) Notwithstanding ~~G.S. 15A-145.4~~, G.S. 15A-145.4 or G.S. 15A-145.5, the Commission may gain access to a person's felony conviction records, including those maintained by the Administrative Office of the Courts in its confidential files containing the

names of persons granted expunctions. The Commission may deny, suspend, or revoke a person's certification based solely on that person's felony conviction, whether or not that conviction was expunged."

SECTION 7. G.S. 17E-12(b) reads as rewritten:

"(b) Notwithstanding ~~G.S. 15A-145.4~~, G.S. 15A-145.4 or G.S. 15A-145.5, the Commission may gain access to a person's felony conviction records, including those maintained by the Administrative Office of the Courts in its confidential files containing the names of persons granted expunctions. The Commission may deny, suspend, or revoke a person's certification based solely on that person's felony conviction, whether or not that conviction was expunged."

SECTION 8. Sections 2, 3, and 4 of this act become effective December 1, 2012, and apply to petitions filed on or after that date, but petitions filed prior to that date are not abated by this act. The remainder of this act becomes effective December 1, 2012.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

Became law upon approval of the Governor at 3:56 p.m. on the 16th day of July, 2012.

Session Law 2012-192

H.B. 244

AN ACT TO AUTHORIZE STERLING MONTESSORI ACADEMY AND CHARTER SCHOOL AND THE CASA ESPERANZA MONTESSORI CHARTER SCHOOL TO ELECT TO PARTICIPATE IN THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES AND TO PROVIDE PROTECTIONS FOR WHISTLE-BLOWERS ALLEGING FRAUD OR OTHER MISCONDUCT RELATED TO THE STATE HEALTH PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the time limitation contained in G.S. 135-48.54(a), the Boards of Directors of (i) Sterling Montessori Academy and Charter School, located in Morrisville, North Carolina, and (ii) the Casa Esperanza Montessori Charter School, located in Raleigh, North Carolina, may elect to become participating employing units in the State Health Plan for Teachers and State Employees in accordance with Article 3B of Chapter 135 of the General Statutes. The election authorized by this section shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-48.54.

SECTION 2. Article 1 of Chapter 22B of the General Statutes is amended by adding a new section to read as follows:

"§ 22B-4. Prohibition on contract provisions restricting whistle-blowing related to State Health Plan.

A provision in any contract is void and against public policy if it prohibits an employee's or contractor's ability to report wrongdoing under G.S. 135-48.15 related to the State Health Plan."

SECTION 3. Part 1 of Article 3B of Chapter 135 of the General Statutes is amended by adding a new section to read as follows:

"§ 135-48.15. Whistle-blower protections related to the State Health Plan.

(a) Statement of Public Policy. – It is the policy of this State that persons shall be encouraged to report verbally or in writing to the State Health Plan, Attorney General, or other appropriate authority evidence of activity related to the State Health Plan and involving the following:

- (1) A violation of State or federal law, rule, or regulation.
- (2) Fraud.
- (3) Misappropriation of State resources.
- (4) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

Further, it is the policy of this State that persons shall be free of intimidation or harassment when reporting matters of public concern related to the State Health Plan, including offering testimony to or testifying before appropriate legislative panels.

(b) Protection From Retaliation. – No employer shall sue, discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, any activity described in subsection (a) of this section, unless the employee knows or has reason to believe that the report is inaccurate. No other employee of an employer shall retaliate against another employee because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, any activity described in subsection (a) of this section. No person shall sue, terminate a contract, threaten, or otherwise discriminate against a reporting person regarding the reporting person's compensation or terms of contract because the reporting person, or a person acting on behalf of the reporting person, reports or is about to report, verbally or in writing, any activity described in subsection (a) of this section, unless the reporting person knows or has reason to believe that the report is inaccurate.

(c) Relief for Violation. – Any person injured by a violation of subsection (b) of this section may maintain an action in superior court for damages, an injunction, or other remedies provided in this section against the person who committed the violation within one year after the occurrence of the alleged violation of this Article.

(d) Remedies. – A court, in rendering a judgment in an action brought pursuant to this section, may order an injunction, damages, reinstatement of the employee, the payment of back wages or payments owed under a contract, full reinstatement of fringe benefits and seniority rights, costs, reasonable attorneys' fees, or any combination of these. If an application for a permanent injunction is granted, the person maintaining the action shall be awarded costs and reasonable attorneys' fees. If in an action for damages the court finds that the person maintaining the action was injured by a willful violation of subsection (b) of this section, the court shall award as damages three times the amount of actual damages plus costs and reasonable attorneys' fees against the individual or individuals found to be in violation of subsection (b) of this section.

(e) Unrelated Unfavorable Action. – It shall not be a violation of this Article for a person to discharge or take any other unfavorable action with respect to an employee who has engaged in protected activity as set forth under this Article if the person proves by the greater weight of the evidence that it would have taken the same unfavorable action in the absence of the protected activity of the employee."

SECTION 4. Sections 2 and 3 of this act become effective October 1, 2012, and apply to causes of action arising 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 2nd day of July, 2012.

Became law upon approval of the Governor at 3:14 p.m. on the 17th day of July, 2012.

Session Law 2012-193

H.B. 153

AN ACT TO PROHIBIT A PERSON WHO HAS BEEN CONVICTED OF A FELONY RELATED TO EMPLOYMENT OR HOLDING OFFICE FROM RECEIVING RETIREMENT BENEFITS FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, THE OPTIONAL RETIREMENT PROGRAM FOR THE UNIVERSITY OF NORTH CAROLINA, THE OPTIONAL RETIREMENT PROGRAM FOR STATE-FUNDED COMMUNITY COLLEGES, THE SUPPLEMENTAL RETIREMENT INCOME PLAN FOR STATE

LAW-ENFORCEMENT OFFICERS, AND THE SUPPLEMENTAL RETIREMENT INCOME PLAN FOR LOCAL GOVERNMENTAL LAW-ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"§ 135-18.10A. Forfeiture of retirement benefits for certain felonies related to employment or holding office.

(a) Except as provided in G.S. 135-4(ii), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

- (1) The offense is committed while the member is in service.
- (2) The conduct resulting in the member's conviction is directly related to the member's office or employment.

(b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions where the court finds under G.S. 15A-1340.16(d)(9) or other applicable State or federal procedure that the member's conduct is directly related to the member's office or employment.

(c) If a member or former member whose benefits under the System were forfeited under this section, except for the return of member contributions plus interest, subsequently receives an unconditional pardon of innocence, or the conviction is vacated or set aside for any reason, then the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all accumulated contributions plus interest. Repayment of all accumulated contributions that have been received by the individual under the forfeiture provisions of this section must be made in a total lump-sum payment with interest compounded annually at a rate of six and one-half percent (6.5%) for each calendar year from the year of forfeiture to the year of repayment. An individual receiving a reversal of benefit forfeiture must receive reinstatement of the service credit forfeited."

SECTION 2. G.S. 135-4 is amended by adding a new subsection to read:

"(ii) If a member who is in service and has not vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 135-18.10A for acts committed after December 1, 2012, then that member shall forfeit all benefits under this System, except for a return of member contributions plus interest. If a member who is in service and has vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 135-18.10A for acts committed after December 1, 2012, then that member is not entitled to any creditable service that accrued after December 1, 2012."

SECTION 3. Article 3 of Chapter 128 of the General Statutes is amended by adding a new section to read:

"§ 128-38.4A. Forfeiture of retirement benefits for certain felonies related to employment or holding office.

(a) Except as provided in G.S. 128-26(x), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

- (1) The offense is committed while the member is in service.
- (2) The conduct resulting in the member's conviction is directly related to the member's office or employment.

(b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions where the court finds under G.S. 15A-1340.16(d)(9) or other applicable State or federal procedure that the member's conduct is directly related to the member's office or employment.

(c) If a member or former member whose benefits under the System were forfeited under this section, except for the return of member contributions plus interest, subsequently receives an unconditional pardon of innocence, or the conviction is vacated or set aside for any reason, then the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all accumulated contributions plus interest. Repayment of all accumulated contributions that have been received by the individual under the forfeiture provisions of this section must be made in a total lump-sum payment with interest compounded annually at a rate of six and one-half percent (6.5%) for each calendar year from the year of forfeiture to the year of repayment. An individual receiving a reversal of benefit forfeiture must receive reinstatement of the service credit forfeited."

SECTION 4. G.S. 128-26 is amended by adding a new subsection to read:

"(x) If a member who is in service and has not vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 126-38.5 for acts committed after December 1, 2012, then that member shall forfeit all benefits under this System, except for a return of member contributions plus interest. If a member who is in service and has vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 126-38.5 for acts committed after December 1, 2012, then that member is not entitled to any creditable service that accrued after December 1, 2012."

SECTION 5. Article 4 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"§ 135-75.1A. Forfeiture of retirement benefits for certain felonies related to employment or holding office.

(a) Except as provided in G.S. 135-56(j), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

- (1) The offense is committed while the member is in service.
- (2) The conduct resulting in the member's conviction is directly related to the member's office or employment.

(b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions where the court finds under G.S. 15A-1340.16(d)(9) or other applicable State or federal procedure that the member's conduct is directly related to the member's office or employment.

(c) If a member or former member whose benefits under the System were forfeited under this section, except for the return of member contributions plus interest, subsequently receives an unconditional pardon of innocence, or the conviction is vacated or set aside for any reason, then the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all accumulated contributions plus interest. Repayment of all accumulated contributions that have been received by the individual under the forfeiture provisions of this section must be made in a total lump-sum payment with interest compounded annually at a rate of six and one-half percent (6.5%) for each calendar year from the year of forfeiture to the year of repayment. An individual receiving a reversal of benefit forfeiture must receive reinstatement of the service credit forfeited."

SECTION 6. G.S. 135-56 is amended by adding a new subsection to read:

"(j) If a member who is in service and has not vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 135-75.1A for acts committed after December 1, 2012, then that member shall forfeit all benefits under this System, except for a return of member contributions plus interest. If a member who is in service and has vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 135-75.1A for acts committed

after December 1, 2012, then that member is not entitled to any creditable service that accrued after December 1, 2012."

SECTION 7. Article 1A of Chapter 120 of the General Statutes is amended by adding a new section to read:

"§ 120-4.33A. Forfeiture of retirement benefits for certain felonies related to employment or holding office.

(a) Except as provided in G.S. 120-4.12(g), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

- (1) The offense is committed while the member is serving as a member of the General Assembly.
- (2) The conduct resulting in the member's conviction is directly related to the member's office.

(b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions where the court finds under G.S. 15A-1340.16(d)(9) or other applicable State or federal procedure that the member's conduct is directly related to the member's office.

(c) If a member or former member whose benefits under the System were forfeited under this section, except for the return of member contributions plus interest, subsequently receives an unconditional pardon of innocence, or the conviction is vacated or set aside for any reason, then the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all accumulated contributions plus interest. Repayment of all accumulated contributions that have been received by the individual under the forfeiture provisions of this section must be made in a total lump-sum payment with interest compounded annually at a rate of six and one-half percent (6.5%) for each calendar year from the year of forfeiture to the year of repayment. An individual receiving a reversal of benefit forfeiture must receive reinstatement of the service credit forfeited."

SECTION 8. G.S. 120-4.12 is amended by adding a new subsection to read:

"(g) If a member who is a present member of the General Assembly and who has not vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 120-4.33A for acts committed after December 1, 2012, then that member shall forfeit all benefits under this System, except for a return of member contributions plus interest. If a member who is a present member of the General Assembly and has vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 120-4.33A for acts committed after December 1, 2012, then that member is not entitled to any creditable service that accrued after December 1, 2012."

SECTION 9. G.S. 15A-1340.16(d)(9) reads as rewritten:

"(d) Aggravating Factors. – The following are aggravating factors:

...

- (9) The defendant held public elected or appointed office or public employment at the time of the offense and the offense directly related to the conduct of the office, office or employment.

...."

SECTION 10. G.S. 15A-1340.16 is amended by adding a new subsection to read:

"(f) If the court determines that an aggravating factor under subdivision (9) of subsection (d) of this section has been proven, the court shall notify the State Treasurer of the fact of the conviction as well as the finding of the aggravating factor. The indictment charging the defendant with the underlying offense must include notice that the State seeks to prove the defendant acted in accordance with subdivision (9) of subsection (d) of this section and that the State will seek to prove that as an aggravating factor."

SECTION 11. G.S. 135-5.1 is amended by adding a new subsection to read:

"(h) The Board of Governors of The University of North Carolina shall ensure that the Optional Retirement Program contains benefit forfeiture provisions equivalent to those contained in G.S. 135-18.10A for University personnel who are eligible for membership in the Teachers' and State Employees' Retirement System and have elected participation in the Optional Retirement Program. Any funds forfeited shall be deposited in the Optional Retirement Program trust fund(s)."

SECTION 12. G.S. 135-5.4 is amended by adding a new subsection to read:

"(h) The North Carolina Community College System shall ensure that the Optional Retirement Program for State-funded community colleges contains benefit forfeiture provisions equivalent to those contained in G.S. 135-18.10A for community college personnel eligible for membership in the Teachers' and State Employees' Retirement System and have elected participation in the Optional Retirement Program. Any funds forfeited shall be deposited in the Optional Retirement Program trust fund(s)."

SECTION 13. G.S. 143-166.30 reads as rewritten:

"§ 143-166.30. Retirement benefits for State law-enforcement officers.

...

(d) Supplemental Retirement Income Plan for State Law-Enforcement Officers. – As of January 1, 1985, there shall be created a Supplemental Retirement Income Plan, hereinafter called the "Plan," established for the benefit of all law-enforcement officers employed by the State, who shall be participants. The Board of Trustees of the State Retirement System shall administer the Plan and shall, under the terms and conditions otherwise appearing herein, provide Plan benefits either (i) by establishing a separate trust fund in conformance with Section 401(a), Section 401(k) or other sections of the Internal Revenue Code of 1954 as amended or, (ii) by causing the Plan to affiliate with some master trust fund providing the same benefits for participants. The Plan shall be separate and apart from any retirement systems.

In addition to the contributions transferred from the Law-Enforcement Officers' Retirement System and the contributions otherwise provided for in this Article, participants may make voluntary contributions to the Plan to be credited to the designated individual accounts of participants; provided, in no instance shall the total contributions by a participant exceed ten percent (10%) of a participant's compensation within any calendar year.

All contributions to the Plan shall be credited to the individual accounts of participants, and except as provided in subsection (g1) of this section, shall be fully and immediately vested in the name of the participant, and shall be invested according to each participant's election, as provided by the Board of Trustees, including but not limited to time deposits, and both fixed and variable investments. The Plan may provide for loans to participants, at reasonable rates of interest to be charged, from participants' individual accounts, and may provide for withdrawal of contributions on account of hardship.

The benefit to a participant in the Plan shall be either a lump-sum distribution or a distribution in periodic installments of the participant's account payable under retirement, disability, or termination of employment. Upon the death of a participant there shall be paid the same lump-sum distribution or periodic installments to the surviving spouse of the participant or otherwise to the participant's estate; provided, should a participant instruct the Board of Trustees in writing that he does not wish these benefits to be paid to his spouse or estate, then the benefits shall be paid to the person or persons as the participant may name for this purpose.

Upon retirement, a participant in the Plan may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, to the Teachers' and State Employees' Retirement System and receive, in addition to his basic service, early or disability retirement allowance a special retirement allowance which shall be based on his eligible accumulated account balance at the date of the transfer of the assets.

...

(g) Exemption from Garnishment and Attachment. – Except as provided in subsection (g1) of this section, ~~The~~ the right of a participant in the Supplemental Retirement Income Plan

to the benefits provided under this Article is nonforfeitable and exempt from levy, sale, and garnishment.

(g1) Forfeiture of Benefits for Certain Felonies. – Participants in the Supplemental Retirement Income Plan for State Law-Enforcement Officers whose benefits are forfeited under G.S. 135-18.10A shall also forfeit contributions paid on or after December 1, 2012, on behalf of the participant by the State to the Supplemental Retirement Income Plan. Any funds forfeited shall be deposited in the Supplemental Retirement Income Plan.

(h) Notwithstanding any other provisions of law, any pending or inchoate rights of a member of the Law-Enforcement Officers' Retirement System as of their transfer to the State Retirement System on January 1, 1985, including the rights to a vested deferred retirement allowance and to commence retirement at certain ages with required years of service as a law-enforcement officer, shall in no way be diminished; provided, however, in no event may a member commence retirement and continue membership service with the same Retirement System.

No eligible officer shall be precluded from exercising that officer's pending or inchoate rights under this section, should the officer elect to make Roth after-tax contributions to the Supplemental Retirement Income Plan, except that these Roth after-tax contributions and the earnings thereon shall not be subsequently transferred to the Teachers' and State Employees' Retirement System."

SECTION 14. G.S.143-166.50 reads as rewritten:

"§ 143-166.50. **Retirement benefits for local governmental law-enforcement officers.**

...

(e2) Forfeiture of Benefits for Certain Felonies. – Participants in the Supplemental Retirement Income Plan for Local Governmental Law-Enforcement Officers whose benefits are forfeited under G.S. 128-38.4A shall also forfeit contributions paid on or after December 1, 2012, on behalf of the participant by local government employers of law enforcement officers to the Supplemental Retirement Income Plan for Local Governmental Law-Enforcement Officers. Any funds forfeited shall be deposited in the Supplemental Retirement Income Plan."

SECTION 15. G.S. 135-94 reads as rewritten:

"§ 135-94. **Benefits.**

(a) The Department of State Treasurer and the Board of Trustees shall establish a schedule of supplemental retirement income benefits for all members of the Supplemental Retirement Income Plan, subject to the following limitations:

- (1) Except as provided in G.S. 143-166.30(g1) and G.S. 143-166.50(e2), The the balance in each member's account shall be fully vested at all times and shall not be subject to forfeiture for any reason.
- (2) All amounts maintained in a member's account shall be invested according to the member's election, as approved by the Department of State Treasurer and Board of Trustees, including but not limited to, a time deposit account, a fixed investment account, or a variable investment account. Transfers of accumulated funds shall be permitted among the various approved forms of investment.
- (3) The Department of State Treasurer and Board of Trustees shall provide members with alternative payment options, including survivors' options, for the distribution of benefits from the Plan upon retirement, disability, termination, hardship, and death.
- (4) With the consent of the Department of State Treasurer and the Board of Trustees, amounts may be transferred from other qualified plans to the Supplemental Retirement Income Plan, provided that the trust from which such funds are transferred permits the transfer to be made and, the transfer will not jeopardize the tax status of the Supplemental Retirement Income Plan.

- (5) At the discretion of the Department of State Treasurer and Board of Trustees, a loan program may be implemented for members which complies with applicable State and federal laws and regulations.
- (b) All provisions of the Plan shall be interpreted and applied by the Department of State Treasurer and Board of Trustees in a uniform and nondiscriminatory manner.
- (c) All benefits under the Plan shall become payable on and after January 1, 1985.
- (d) Contributions under the Plan may be made on and after January 1, 1985."

SECTION 16. G.S. 135-95 reads as rewritten:

"§ 135-95. **Exemption from garnishment, attachment.**

Except for the applications of the provisions of G.S. 143-166.30(g1), G.S. 143-166.50(e2), G.S. 110-136, and G.S. 110-136.3 et seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a member in the Supplemental Retirement Income Plan to the benefits provided under this Article is nonforfeitable and exempt from levy, sale, and garnishment."

SECTION 17. The State Treasurer shall negotiate a memorandum of agreement with the United States Attorneys for the Eastern, Middle, and Western Districts of North Carolina whereby the prosecutors will notify the State Treasurer of convictions under G.S. 135-18.10A(b), 128-38.4A(b), 135-75.1A(b), 120-4.33A(b), 135-5(h), and 135-5.4(h).

SECTION 18. This act becomes effective December 1, 2012, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law upon approval of the Governor at 3:16 p.m. on the 17th day of July, 2012.

Session Law 2012-194

S.B. 847

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES, INCLUDING SPECIFICALLY AUTHORIZING THE REVISOR OF STATUTES TO PRINT DRAFTERS' COMMENTS TO THREE ACTS ENACTED IN 2011 IN WHICH THIS AUTHORIZATION WAS INADVERTENTLY OMITTED, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER AMENDMENTS.

The General Assembly of North Carolina enacts:

PART I. GENERAL STATUTES COMMISSION TECHNICAL CORRECTIONS

SECTION 1.(a) The intent of this section is to codify the permanent reductions to the minimum number of magistrates in various counties and the number of full-time assistant district attorneys in certain prosecutorial districts that have been made by the Administrative Office of the Courts pursuant to Section 15.14 of S.L. 2010-31, as added by Section 6.4 of S.L. 2010-123, to the end that the General Statutes reflect the actual authorized numbers of magistrates and assistant district attorneys.

SECTION 1.(b) G.S. 7A-60(a1) reads as rewritten:

"(a1) (**See Editor's note for staffing changes**) 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	8
3A	Pitt	11
3B	Carteret, Craven, Pamlico	12
4	Duplin, Jones, Onslow, Sampson	18
5	New Hanover, Pender	18
6A	Halifax	5
6B	Bertie, Hertford, Northampton	6 <u>5</u>
7	Edgecombe, Nash, Wilson	19 <u>18</u>
8	Greene, Lenoir, Wayne	14
9	Franklin, Granville, Vance, Warren	12 <u>10</u>
9A	Person, Caswell	6
10	Wake	42 <u>41</u>
11A	Harnett, Lee	9
11B	Johnston	10
12	Cumberland	23
13	Bladen, Brunswick, Columbus	13
14	Durham	18
15A	Alamance	11
15B	Orange, Chatham	10
16A	Scotland, Hoke	7
16B	Robeson	13 <u>12</u>
17A	Rockingham	7
17B	Stokes, Surry	8
18	Guilford	32
19A	Cabarrus	9
19B	Montgomery, Randolph	10 <u>9</u>
19C	Rowan	8
19D	Moore	5
20A	Anson, Richmond, Stanly	12 <u>11</u>
20B	Union	10
21	Forsyth	25
22A	Alexander, Iredell	11
22B	Davidson, Davie	11
23	Alleghany, Ashe, Wilkes, Yadkin	8
24	Avery, Madison, Mitchell, Watauga, Yancey	7
25	Burke, Caldwell, Catawba	19 <u>18</u>
26	Mecklenburg	58
27A	Gaston	15 <u>14</u>
27B	Cleveland, Lincoln	11
28	Buncombe	14
29A	McDowell, Rutherford	7
29B	Henderson, Polk, Transylvania	8
30	Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain."	11 <u>10</u>

SECTION 1.(c) G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

<u>County</u>	<u>Magistrates Min.</u>	<u>Additional Seats of Court</u>
Camden		
Chowan	3	
Currituck		4
Dare	6	
Gates	2	
Pasquotank	54	
Perquimans	3	
Martin	4	
Beaufort	5-055	
Tyrrell	3	
Hyde	3.5	
Washington	43	
Pitt	10.5	Farmville Ayden Havelock
Craven	108	
Pamlico	3	
Carteret	97	
Sampson	76	
Duplin	84	
Jones	2	
Onslow	11	
New Hanover	11	
Pender	4-83.8	
Halifax	127	Roanoke Rapids, Scotland Neck
Northampton	5.25	
Bertie	53	
Hertford	65	
Nash	9	Rocky Mount
Edgecombe	7	Rocky Mount
Wilson	7	
Wayne	9	Mount Olive
Greene	4	
Lenoir	7	La Grange
Granville	76.75	
Vance	6	
Warren	3.5	
Franklin	7	
Person	4	
Caswell	43	

Wake	18.5	Apex, Wendell, Fuquay- Varina, Wake Forest
Harnett	408	Dunn
Johnston	410	Benson, Clayton, Selma
Lee	5.55	
Cumberland	19	
Bladen	<u>54</u>	
Brunswick	9	
Columbus	9.57.5	Tabor City
Durham	13	
Alamance	12	Burlington
Orange	<u>97</u>	Chapel Hill
Chatham	<u>64</u>	Siler City
Scotland	5	
Hoke	<u>53</u>	
Robeson	1513	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	<u>97</u>	Reidsville, Eden, Madison
Stokes	5	
Surry	9	Mt. Airy
Guilford	24.4	High Point
Cabarrus	9	Kannapolis
Montgomery	<u>54</u>	
Randolph	<u>109</u>	Liberty
Rowan	9	
Stanly	<u>65</u>	
Union	7	
Anson	<u>54</u>	
Richmond	<u>65</u>	Hamlet
Moore	6.55	Southern Pines
Forsyth	15	Kernersville
Alexander	4	
Davidson	<u>108</u>	Thomasville
Davie	<u>43</u>	
Iredell	9	Mooresville
Alleghany	2	
Ashe	<u>43</u>	
Wilkes	6	
Yadkin	<u>43</u>	
Avery	4	
Madison	4	

Mitchell	4	
Watauga	<u>54</u>	
Yancey	3	
Burke	6.755 <u>6</u>	
Caldwell	<u>76</u>	
Catawba	10	Hickory
Mecklenburg	26.50	
Gaston	17	
Cleveland	<u>87</u>	
Lincoln	6	
Buncombe	15	
Henderson	6.5	
McDowell	<u>4.54</u>	
Polk	4	
Rutherford	<u>76</u>	
Transylvania	4	
Cherokee	4	
Clay	2	
Graham	2	
Haywood	6.756	Canton
Jackson	<u>54</u>	
Macon	3.5	
Swain	3.753 "	

SECTION 1.(d) Effective January 1, 2013, G.S. 7A-133(c), as amended by subsection (c) of this section, reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

<u>County</u>	<u>Magistrates Min.</u>	<u>Additional Seats of Court</u>
Camden	3	
Chowan	3	
Currituck	<u>43</u>	
Dare	<u>64</u>	
Gates	2	
Pasquotank	4	
Perquimans	3	
Martin	<u>43</u>	
Beaufort	<u>54</u>	
Tyrrell	3	
Hyde	3.5	
Washington	3	
Pitt	10.5	Farmville Ayden Havelock
Craven	8	
Pamlico	3	
Carteret	<u>76</u>	
Sampson	<u>65</u>	
Duplin	4	
Jones	2	
Onslow	11	

New Hanover	11	
Pender	3.8	
Halifax	7	Roanoke Rapids, Scotland Neck
Northampton	5.25 <u>3</u>	
Bertie	3	
Hertford	5 <u>3</u>	
Nash	9	Rocky Mount
Edgecombe	7	Rocky Mount
Wilson	7	
Wayne	9	Mount Olive
Greene	4 <u>3</u>	
Lenoir	7	La Grange
Granville	6.75 <u>5</u>	
Vance	6	
Warren	3.5 <u>3</u>	
Franklin	7 <u>4</u>	
Person	4	
Caswell	3	
Wake	18.5	Apex, Wendell, Fuquay- Varina, Wake Forest
Harnett	8	Dunn
Johnston	10	Benson, Clayton, Selma
Lee	5	
Cumberland	19	
Bladen	4 <u>3</u>	
Brunswick	9 <u>8</u>	
Columbus	7.5 <u>5</u>	Tabor City
Durham	13	
Alamance	12	Burlington
Orange	7	Chapel Hill
Chatham	4	Siler City
Scotland	5	
Hoke	3	
Robeson	13 <u>12</u>	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	7	Reidsville, Eden, Madison
Stokes	5 <u>3</u>	
Surry	9 <u>6</u>	Mt. Airy
Guilford	24.4	High Point
Cabarrus	9	Kannapolis

Montgomery	<u>43</u>	
Randolph	9	Liberty
Rowan	9	
Stanly	5	
Union	7	
Anson	<u>43</u>	
Richmond	5	Hamlet
Moore	5	Southern Pines
Forsyth	15	Kernersville
Alexander	<u>43</u>	
Davidson	8	Thomasville
Davie	3	
Iredell	9	Mooresville
Alleghany	2	
Ashe	3	
Wilkes	6	
Yadkin	3	
Avery	<u>43</u>	
Madison	<u>43</u>	
Mitchell	<u>43</u>	
Watauga	4	
Yancey	3	
Burke	5.6	
Caldwell	6	
Catawba	10	Hickory
Mecklenburg	26.50	
Gaston	17	
Cleveland	7	
Lincoln	<u>65</u>	
Buncombe	15	
Henderson	6.5	
McDowell	<u>43</u>	
Polk	<u>43</u>	
Rutherford	6	
Transylvania	<u>43</u>	
Cherokee	<u>43</u>	
Clay	2	
Graham	2	
Haywood	<u>65</u>	Canton
Jackson	<u>43</u>	
Macon	<u>3-53</u>	
Swain	3".	

SECTION 1.(e) Subsection (d) of this section becomes effective January 1, 2013. The remainder of this section is effective when it becomes law.

SECTION 2. G.S. 7B-1112 reads as rewritten:

"§ 7B-1112. Effects of termination order.

An order terminating the parental rights completely and permanently terminates all rights and obligations of the parent to the juvenile and of the juvenile to the parent arising from the parental relationship, except that the juvenile's right of inheritance from the juvenile's parent shall not terminate until a final order of adoption is issued. The parent is not thereafter entitled to notice of proceedings to adopt the juvenile and may not object thereto or otherwise participate therein:

- (1) If the juvenile had been placed in the custody of or released for adoption by one parent to a county department of social services or licensed child-placing agency and is in the custody of the agency at the time of the filing of the petition or motion, including a petition or motion filed pursuant to ~~G.S. 7B-1103(6)~~, G.S. 7B-1103(a)(6), that agency shall, upon entry of the order terminating parental rights, acquire all of the rights for placement of the juvenile, except as otherwise provided in G.S. 7B-908(d), as the agency would have acquired had the parent whose rights are terminated released the juvenile to that agency pursuant to the provisions of Part 7 of Article 3 of Chapter 48 of the General Statutes, including the right to consent to the adoption of the juvenile.

...."

SECTION 3. G.S. 7B-4002 reads as rewritten:

"§ 7B-4002. Implementation of the Compact.

(a) The North Carolina State Council for Interstate Juvenile Supervision is hereby established. The ~~Secretary of the Department of Juvenile Justice and Delinquency Prevention~~, Secretary of Public Safety, 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 Commission. The ~~Secretary of the Department of Juvenile Justice and Delinquency Prevention~~, Secretary of Public Safety, or the Secretary's designee, is a member of the State Council and serves as chairperson of the State Council. In addition to the chairperson, the State Council shall consist of 10 members as follows:

- (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 district court judge, to be appointed by the Chief Justice of the Supreme Court; and
- (7) Four members representing the juvenile court counselors, to be appointed by the ~~Secretary of the Department of Juvenile Justice and Delinquency Prevention~~, Secretary of Public Safety.

(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 the Department of Juvenile Justice and Delinquency Prevention~~ Secretary of Public Safety 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."

SECTION 4.(a) G.S. 14-208.6 reads as rewritten:**"§ 14-208.6. Definitions.**

The following definitions apply in this Article:

...

- (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), former 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), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), 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.

...."

SECTION 4.(b) G.S. 14-208.26(a) reads as rewritten:

"(a) When a juvenile is adjudicated delinquent for 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), or former G.S. 14-27.6 (attempted rape or sexual offense), and the juvenile was at least eleven years of age at the time of the commission of the offense, the court shall consider whether the juvenile is a danger to the community. If the court finds that the juvenile is a danger to the community, then the court shall consider whether the juvenile should be required to register with the county sheriff in accordance with this Part. The determination as to whether the juvenile is a danger to the community and whether the juvenile shall be ordered to register shall be made by the presiding judge at the dispositional hearing. If the judge rules that the juvenile is a danger to the community and that the juvenile shall register, then an order shall be entered requiring the juvenile to register. The court's findings regarding whether the juvenile is a danger to the community and whether the juvenile shall register shall be entered into the court record. No juvenile may be required to register under this Part unless the court first finds that the juvenile is a danger to the community."

SECTION 6. G.S. 15A-101.1 reads as rewritten:**"§ 15A-101.1. Electronic technology in criminal process and procedure.**

As used in this Chapter, in Chapter 7A of the General Statutes, in Chapter 15 of the General Statutes, and in all other provisions of the General Statutes that deal with criminal process or procedure:

...

- (3a) "Electronic monitoring" or "electronically monitor" or "satellite-based monitoring" means monitoring with an electronic monitoring device that is not removed from a person's body, that is utilized by the supervising agency

in conjunction with a Web-based computer system that actively monitors, identifies, tracks, and records a person's location at least once every minute 24 hours a day, that has a battery life of at least 48 hours without being recharged, that timely records and reports or records the person's presence near or within a crime scene or prohibited area or the person's departure from a specified geographic location, and that has incorporated into the software the ability to automatically compare crime scene data with locations of all ~~person's~~ persons being electronically monitored so as to provide any correlation daily or in real time. In areas of the State where lack of cellular coverage requires the use of an alternative device, the supervising agency shall use an alternative device that works in concert with the software and records location and tracking data for later download and crime scene comparison.

...."

SECTION 7. G.S. 15A-1344(d) and (e) read as rewritten:

"(d) Extension and Modification; Response to Violations. — At any time prior to the expiration or termination of the probation 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. A hearing extending or modifying probation may be held in the absence of ~~the defendant, if he~~ defendant who fails to appear for the hearing after a reasonable effort to notify ~~him~~ the defendant. If a probationer 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~~ the defendant 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.

(e) Special Probation in Response to Violation. — When a defendant has violated a condition of probation, the court may modify ~~his~~ the probation to place ~~him~~ the defendant on special probation as provided in this subsection. In placing ~~him~~ the defendant on special probation, the court may continue or modify the conditions of ~~his~~ probation and in addition require that ~~he~~ the defendant 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~~ rules and regulations of the Division of Adult Correction of the Department of Public Safety 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 Division of Adult Correction of the Department of Public Safety 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."

SECTION 8. G.S. 20-9(d) is repealed.

SECTION 9. G.S. 20-141(j2) reads as rewritten:

"(j2) A person who drives a motor vehicle in a highway work zone at a speed greater than the speed limit set and posted under this section shall be required to pay a penalty of two hundred fifty dollars (\$250.00). This penalty shall be imposed in addition to those penalties established in this Chapter. A "highway work zone" is the area between the first sign that informs motorists of the existence of a work zone on a highway and the last sign that informs motorists of the end of the work zone. The additional penalty imposed by this subsection applies only if ~~sign~~ signs are posted at the beginning and end of any segment of the highway work zone stating the penalty for speeding in that segment of the work zone. The Secretary shall ensure that work zones shall only be posted with penalty signs if the Secretary determines, after engineering review, that the posting is necessary to ensure the safety of the traveling public due to a hazardous condition.

A law enforcement officer issuing a citation for a violation of this section while in a highway work zone shall indicate the vehicle speed and speed limit posted in the segment of the work zone, and determine whether the individual committed a violation of G.S. 20-141(j1). Upon an individual's conviction of a violation of this section while in a highway work zone, the clerk of court shall report that the vehicle was in a work zone at the time of the violation, the vehicle speed, and the speed limit of the work zone to the Division of Motor Vehicles."

SECTION 10. G.S. 20-146.2(a) reads as rewritten:

"(a) HOV Lanes. – The Department of Transportation may designate one or more travel lanes as high occupancy vehicle (HOV) lanes on streets and highways on the State Highway System and cities may designate one or more travel lanes as high occupancy vehicle (HOV) lanes on streets on the Municipal Street System. HOV lanes shall be reserved for vehicles with a specified number of passengers as determined by the Department of Transportation or the city having jurisdiction over the street or highway. When HOV lanes have been designated, and have been appropriately marked with signs or other markers, they shall be reserved for privately or publicly operated buses, and automobiles or other vehicles containing the specified number of persons. Where access restrictions are applied on HOV lanes through designated signing and pavement markings, vehicles shall only cross into or out of an HOV lane at designated openings. A motor vehicle shall not travel in a designated HOV lane if the motor vehicle has more than three axles, regardless of the number of occupants. HOV lane restrictions shall not apply to any of the following:

- ...
- (6) Fuel cell electric vehicles as defined in ~~G.S. 29-4.01(12a)~~, G.S. 20-4.01(12a), regardless of the number of passengers in the vehicle. These vehicles must be able to travel at the posted speed limit while operating in the HOV lane."

SECTION 11. Article 11 of Chapter 25 of the General Statutes is repealed.

SECTION 12. G.S. 28A-2-4(a) reads as rewritten:

"(a) The clerks of superior court of this State, as ex officio judges of probate, shall have original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this subsection, the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include, but are not limited to, the following:

- ...
- (4) Proceedings to ascertain heirs or devisees, to approve ~~family~~ settlement agreements pursuant to G.S. 28A-2-10, to determine questions of

construction of wills, to determine priority among creditors, to determine whether a person is in possession of property belonging to an estate, to order the recovery of property of the estate in possession of third parties, and to determine the existence or nonexistence of any immunity, power, privilege, duty, or right. Any party or the clerk of superior court may file a notice of transfer of a proceeding pursuant to this subdivision to the Superior Court Division of the General Court of Justice as provided in G.S. 28A-2-6(h). In the absence of a transfer to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to a trust proceeding pending before the clerk of superior court to the extent consistent with this Article."

SECTION 13.(a) G.S. 28A-5-1(b) reads as rewritten:

"(b) Implied Renunciation by Executor. – If any person named or designated as executor fails to qualify or to renounce within 30 days after the will had been admitted to probate, (i) the clerk of superior court may issue a notice to that person to qualify or move for an extension of time to qualify within 15 days, or (ii) any other person named or designated as executor in the will or any interested person may file a petition in accordance with Article 2 of this Chapter for an order finding that person named or designated as executor to be deemed to have renounced. If that person does not file a response to the ~~motion-notice~~ or petition within 15 days from the date of service of the ~~motion-notice~~ or petition, the clerk of superior court shall enter an order adjudging that the person has renounced. If the person files a response within 15 days from the date of service of the ~~motion-notice~~ or petition requesting an extension of time within which to qualify or renounce, upon hearing, the clerk of superior court may grant to that person a reasonable extension of time within which to qualify or renounce for cause shown. If that person qualifies within 15 days of the date of service of the ~~motion-notice~~ or petition, the clerk of superior court shall dismiss that ~~motion-notice~~ or petition, without prejudice, summarily and without hearing."

SECTION 13.(b) G.S. 28A-5-2(b) reads as rewritten:

"(b) Implied Renunciation. –

(1) If any person entitled to apply for letters of administration fails to apply therefor within 30 days from the date of death of the intestate, (i) the clerk of superior court may issue a notice to the person to qualify or move for an extension of time to qualify within 15 days, or (ii) any interested person may file a petition in accordance with Article 2 of this Chapter for an order finding that person to be deemed to have renounced. If the person does not file a response to the notice or petition within 15 days from the date of service of the ~~motion,notice or petition~~, the clerk of superior court shall enter an order adjudging that the person has renounced. If the person files a response within 15 days from the date of service of the ~~motion-notice or petition~~ requesting an extension of time within which to qualify or renounce, upon hearing, the clerk of superior court may grant to that person a reasonable extension of time within which to qualify or renounce for cause shown. If the person qualifies within 15 days of the date of service of the ~~motion,notice or petition~~, the clerk of superior court shall dismiss the ~~motion,notice or petition~~, without prejudice, summarily and without hearing and the clerk of superior court shall issue letters to some other person as provided in G.S. 28A-4-1. No notice shall be required to be given to any interested person, but the clerk may give notice as the clerk in the clerk's discretion may determine.

...."

SECTION 14. The catch line of G.S. 30-30 reads as rewritten:

"§ 30-30. ~~Judgment and order for commissioners.~~**Judgment.**"

SECTION 15. G.S. 44A-24.2 reads as rewritten:

"§ 44A-24.2. Definitions.

The following definitions apply in this Part:

...

- (3) Commercial real estate. – Any real property or interest therein, whether freehold or nonfreehold, which at the time the property or interest is made the subject of an agreement for broker services:
- a. Is lawfully used primarily for sales, office, research, institutional, warehouse, manufacturing, industrial, or mining purposes or for multifamily residential purposes involving five or more dwelling units;
 - b. May lawfully be used for any of the purposes listed in ~~subdivision (3)~~sub-subdivision (3)a. of this section by a zoning ordinance adopted pursuant to the provisions of Article 18 of Chapter 153A or Article 19 of Chapter 160A of the General Statutes or which is the subject of an official application or petition to amend the applicable zoning ordinance to permit any of the uses listed in ~~subdivision (3)~~sub-subdivision (3)a. of this section which is under consideration by the government agency with authority to approve the amendment; or
 - c. Is in good faith intended to be immediately used for any of the purposes listed in ~~subdivision (3)~~sub-subdivision (3)a. of this section by the parties to any contract, lease, option, or offer to make any contract, lease, or option.

...."

SECTION 16. G.S. 62-36A is recodified as G.S. 62-36.1.

SECTION 17. G.S. 63A-3(b) reads as rewritten:

"(b) Board of Directors. – The Authority shall be governed by a Board of Directors. The Board shall consist of at least the following 20 members:

- (1) Six members appointed by the Governor. One member shall be representative of the economic development industry, two members shall be representative of the commercial real estate development industry, two members shall be representative of the banking and finance industry, and one member shall be representative of environmental interests. Of the Governor's six appointments, at least one member shall come from each of the State's three regions: Western, Piedmont, and Eastern.

...."

SECTION 18. G.S. 63A-24 reads as rewritten:

"§ 63A-24. General laws apply to Authority; exceptions.

(a) Except as provided in this section, the general laws that apply to State agencies apply to the Authority. The following general laws, to the extent provided below, do not apply to the Authority:

...

- (3) Except for G.S. 146-29.1, 146-79, and 146-80, Chapter 146 of the General Statutes does not apply to the Authority.

(b) Notwithstanding ~~this exemption from Chapter 146 of the General Statutes, G.S. 126-5(c1)(15),~~ the Secretary of Transportation may designate employees of the Authority as subject to Chapter ~~146~~126 of the General Statutes."

SECTION 19. G.S. 101-5(f) reads as rewritten:

"(f) If the clerk finds that good and sufficient reasons exist to deny the applicant's request for a name change, it is the clerk's duty not to issue an order changing the name of the applicant from that person's true name to the name sought to be adopted. The order denying the name change shall state the reasons for the denial. If the applicant desires to appeal the clerk's decision, the applicant must petition the chief resident superior court judge within 30 days of

the date of the order denying the name change to request a reconsideration of the application. The reconsideration decision of the chief resident superior court judge is final and not subject to appeal. An unsuccessful applicant on reconsideration is subject to a waiting period of 12 months from the date of the adverse decision of the chief resident superior court judge before the applicant may submit another name change application. A successful applicant on reconsideration shall be granted the name change by the clerk in like manner as prescribed by subsection (d) of this section."

SECTION 21.(a) G.S. 115C-325(p) reads as rewritten:

"(p) Section Applicable to Certain Institutions. – Notwithstanding any law or regulation to the contrary, this section shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human ~~Services, Services and~~ Public Instruction, Correction, or Juvenile Justice and Delinquency Prevention [the Division of Juvenile Justice of the Department of Public Safety] Instruction and the Divisions of Juvenile Justice and Adult Correction of the Department of Public Safety regardless of the age of the students."

SECTION 21.(b) Section 40 of S.L. 2012-83 is repealed. If House Bill 969, 2011 Regular Session, becomes law and, as enacted, contains the amendment to G.S. 115C-325(p) that appears in Section 42 of the first edition of that bill, that amendment is repealed. If Senate Bill 880, 2011 Regular Session, becomes law and, as enacted, contains the amendment to G.S. 115C-325(p) that appears in Section 41 of the first edition of that bill, that amendment is repealed.

SECTION 22.(a) G.S. 120-30.9F reads as rewritten:

"§ **120-30.9F. Municipalities; municipal attorney.**

The municipal attorney of any municipality covered by the Voting Rights Act of 1965 shall submit to the Attorney General of the United States within 30 days:

- (1) Of the time they become laws, any local acts of the General Assembly; and
- (2) Of adoption actions of the municipal governing body or ~~board of elections~~ or any other municipal agency or county board of elections which constitutes a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 in that municipality; provided that, if required or allowed by regulations or practices of the United States Department of Justice, a municipal attorney may delay submission of any annexation ordinance or group of ordinances until all previously submitted annexation ordinances have been precleared or otherwise received final disposition."

SECTION 22.(b) G.S. 163-304 reads as rewritten:

"§ **163-304. State Board of Elections to have jurisdiction over municipal elections and ~~election officials, elections,~~ and to advise; emergency and ongoing administration by county board.**

(a) Authority and Duty of State Board. – The State Board of Elections shall have the same authority over municipal elections ~~and election officials~~ elections as it has over county and State ~~elections and election officials, elections.~~ The State Board of Elections shall advise and assist cities, towns, incorporated villages and special districts, their members and legal officers on the conduct and administration of their elections and registration procedure.

The county boards of elections shall be governed by the same rules for settling controversies with respect to counting ballots or certification of the returns of the vote in any municipal or special district election as are in effect for settling such controversies in county and State elections.

(b) through (e) Repealed by Session Laws 2011-31, s. 25, effective April 7, 2011."

SECTION 23. G.S. 120-70.94(a) reads as rewritten:

"(a) The Joint Legislative Oversight Committee on Justice and Public Safety shall examine, on a continuing basis, the correctional, law enforcement, and juvenile justice systems in North Carolina, in order to make ongoing recommendations to the General Assembly on ways to improve those systems and to assist those systems in realizing their objectives of

protecting the public and of punishing and rehabilitating offenders. In this examination, the Committee shall:

- (1) Study the budget, programs, and policies of the ~~Departments of Correction, Crime Control and Public Safety, and Juvenile Justice and Delinquency Prevention~~ Department of Public Safety to determine ways in which the General Assembly may improve the effectiveness of ~~those Departments~~ the Department.

...

- (10) Study the needs of juveniles. This study may include, but is not limited to:
- a. Determining the adequacy and appropriateness of services:
 1. To children and youth receiving child welfare services;
 2. To children and youth in the juvenile court system;
 3. Provided by the Division of Social Services of the Department of Health and Human Services and the Division of Juvenile Justice of the Department of Public Safety;
 4. To children and youth served by the Mental Health, Developmental Disabilities, and Substance Abuse Services system.
 - b. Developing methods for identifying and providing services to children and youth not receiving but in need of child welfare services, children and youth at risk of entering the juvenile court system, and children and youth exposed to domestic violence situations.
 - c. Identifying obstacles to ensuring that children who are in secure or nonsecure custody are placed in safe and permanent homes within a reasonable period of time and recommending strategies for overcoming those obstacles. The Commission shall consider what, if anything, can be done to expedite the adjudication and appeal of abuse and neglect charges against parents so that decisions may be made about the safe and permanent placement of their children as quickly as possible.

...."

SECTION 24. G.S. 122A-3 reads as rewritten:

"§ 122A-3. Definitions.

The following definitions apply in this ~~section~~ Chapter:

- (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) Rehabilitation. – The renovation or improvement of residential housing by the owner of said residential housing.
- (13) 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.
- (14) State. – The State of North Carolina."

SECTION 25. G.S. 126-3(b) reads as rewritten:

"(b) The Office shall be responsible for the following activities, and such other activities as specified in this Chapter:

- (1) Providing policy and rule development for the Commission and implementing and administering all policies, rules, and procedures established by the ~~Commission;~~Commission.
 - (2) Providing training in personnel management to agencies, departments, and institutions including train-the-trainer programs for those agencies, departments, and institutions who request such training and where sufficient staff and expertise exist to provide the training within their respective agencies, departments, and ~~institutions;~~institutions.
 - (3) Providing technical assistance in the management of personnel programs and activities to agencies, departments, and ~~institutions;~~institutions.
 - (4) Negotiating decentralization agreements with all agencies, departments, and institutions where it is cost-effective to include delegation of authority for certain classification and corresponding salary administration actions and other personnel programs to be specified in the ~~agreements;~~agreements.
 - (5) Administering such centralized programs and providing services as approved by the Commission which have not been transferred to agencies, departments, and institutions or where this authority has been rescinded for ~~noncompliance;~~noncompliance.
 - (6) Providing approval authority of personnel actions involving classification and compensation where such approval authority has not been transferred by the Commission to agencies, departments, and institutions or where such authority has been rescinded for ~~noncompliance;~~noncompliance.
 - (7) Maintaining a computer database of all relevant and necessary information on employees and positions within agencies, departments, and institutions in the State's personnel ~~system;~~system.
 - (8) Developing criteria and standards to measure the level of compliance or noncompliance with established Commission policies, rules, procedures, criteria, and standards in agencies, departments, and institutions to which authority has been delegated for classification, salary administration and other decentralized programs, and determining through routine monitoring and periodic review process, that agencies, departments, and institutions are in compliance or noncompliance with established Commission policies, rules, procedures, criteria, and ~~standards;~~ and standards.
 - (9) Implementing corrective actions in cases of ~~noncompliance;~~ ~~and~~ noncompliance.
 - (10) Administering the State employee suggestion program (NC-Thinks)."
- SECTION 26.** G.S. 127A-110(f) reads as rewritten:
- "(f) (1) Any amount obtained by any person by settlement with, judgment against, or otherwise from the third party by reason of the injury or death shall be disbursed by order of the court for the following purposes and in the following order of priority:
- a. First to the payment of actual court costs taxed by judgment.
 - b. Second to the payment of the fee of the attorney representing the person making settlement or obtaining judgment, and this fee shall not exceed one third of the amount obtained or recovered of the third party.
 - c. Third to the reimbursement of the State for all benefits by way of compensation or medical treatment expense paid or to be paid by the State pursuant to G.S. 127A-108.
 - d. Fourth to the payment of any amount remaining to the member or personal representative.

- (2) The attorney fee paid under subdivision (1) of this ~~section~~subsection shall be paid by the member and the State in direct proportion to the amount each shall receive under sub-subdivisions (1)c. and d. of this subsection and shall be deducted from the payments when distribution is made."

SECTION 27. G.S. 130A-40.1(b) reads as rewritten:

"(b) The Secretary of Health and Human Services may approve only one request under subsection (a) of this section, this section being designed as a pilot program concerning alternative qualifications for a local health director. The Secretary of Health and Human Services shall report any approval under this section to the Joint Legislative Oversight Committee on Health and Human Services."

SECTION 28. G.S. 130A-309.10(e) reads as rewritten:

"(e) No person shall distribute, sell, or offer for sale in this State any rigid plastic container, including a plastic beverage ~~container~~container, unless the container has a molded label indicating the plastic resin used to produce the container. The code shall consist of a number placed within three triangulated arrows and letters placed below the triangulated arrows. The three arrows shall form an equilateral triangle with the common point of each line forming each angle of the triangle at the midpoint of each arrow and rounded with a short radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the arrowhead from the base of the adjacent arrow. The triangle formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number. The label shall appear on or near the bottom of the container and be clearly visible. A container having a capacity of less than eight fluid ounces or more than five gallons is exempt from the requirements of this subsection. The numbers and letters shall be as follows:

- (1) For polyethylene terephthalate, the letters "PETE" and the number 1.
- (2) For high density polyethylene, the letters "HDPE" and the number 2.
- (3) For vinyl, the letter "V" and the number 3.
- (4) For low density polyethylene, the letters "LDPE" and the number 4.
- (5) For polypropylene, the letters "PP" and the number 5.
- (6) For polystyrene, the letters "PS" and the number 6.
- (7) For any other, the letters "OTHER" and the number 7."

SECTION 29. G.S. 131E-129(a) reads as rewritten:

"(a) Violation Classification and Penalties. – The Department of Health and Human Services shall impose an administrative penalty in accordance with provisions of this Article on any facility which is found to be in violation of the requirements of G.S. 131E-117 or applicable State and federal laws and regulations. Citations for violations shall be classified and penalties assessed according to the nature of the violation as follows:

- ...
- (1b) "Past Corrected Type A1 or Type A2 Violation" means either (i) the violation was not previously identified by the Department or its authorized representative or (ii) the violation was discovered by the facility and was self reported, but in either case the violation has been corrected. In determining whether a penalty should be assessed under this section, the Department shall consider the following factors:
- a. Preventive systems in place prior to the violation.
 - b. Whether the violation or violations were abated immediately. ~~and~~
 - c. Whether the facility implemented corrective measures to achieve and maintain compliance.
 - d. Whether the facility's system to ensure compliance is maintained and continues to be implemented.
 - e. Whether the regulatory area remains in compliance.

...."

SECTION 30. G.S. 135-48.27 reads as rewritten:

"§ 135-48.27. Reports to the General Assembly; General Assembly access to information.

In addition to the reports required by ~~G.S. 135-48.22(d)~~, G.S. 135-48.23(d), the State Treasurer, the Executive Administrator, and Board of Trustees shall report to the General Assembly at such times and in such forms as shall be designated by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Employees of the Legislative Services Commission designated by the Legislative Services Officer (i) shall have access to all records related to the Plan of the State Treasurer, the Board of Trustees, the Executive Administrator, the Claims Processor, and the Plan and (ii) shall be entitled to attend all meetings, including executive sessions, of the Board of Trustees."

SECTION 31. G.S. 135-48.44 reads as rewritten:

"§ 135-48.44. 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:

...

- (2) The last day of the month in which an employee's employment with the State is terminated as provided in ~~subsection (e)~~ subsection (d) of this section.

...

(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. 135-48.1, 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.

(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.
- (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.
- (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.
- (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.

- (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.

...."

SECTION 32. G.S. 135-48.50(1) and (5) read as rewritten:

"§ 135-48.50. Coverage mandates.

The Plan shall provide coverage subject to the following coverage mandates:

- (1) Abortion coverage. – The Plan shall not provide coverage for abortions for which State funds could not be used under G.S. 143C-6-5.5. The Plan shall, however, provide coverage for subsequent complications or related charges arising from an abortion not covered under this subdivision. ~~Reserved.~~

...

- (5) ~~Reserved.~~"

SECTION 33. G.S. 143-215.1(a6) reads as rewritten:

"(a6) No permit shall be required to enter into a contract for the construction, installation, or alteration of any treatment works or disposal system or to construct, install, or alter any treatment works or disposal system within the State when the system's or work's ~~principle~~principal function is to conduct, treat, equalize, neutralize, stabilize, recycle, or dispose of industrial waste or sewage from an industrial facility and the discharge of the industrial waste or sewage is authorized under a permit issued for the discharge of the industrial waste or sewage into the waters of the State. Notwithstanding the above, the permit issued for the discharge may be modified if required by federal regulation."

SECTION 34. G.S. 143C-3-5 reads as rewritten:

"§ 143C-3-5. Budget recommendations and budget message.

...

(b) Odd-Numbered Fiscal Years. – In odd-numbered years the budget recommendations shall include the following components:

...

- (3) A Current Operations ~~Appropriation~~Appropriations Act that makes appropriations for each fiscal year of the upcoming biennium for the operating expenses of all State agencies as contained in the Recommended State Budget, together with a Capital Improvements Appropriations Act that authorizes any capital improvements projects.
- (4) The biennial State Information Technology Plan as outlined in ~~G.S. 147-33-72B~~G.S. 147-33.72B to be consistent in facilitating the goals outlined in the Recommended State Budget.

...

(d) Funds Included in Budget. – Consistent with requirements of the North Carolina Constitution, Article 5, ~~Section 7(a)~~Section 7(1), the Governor's Recommended State Budget, together with the Budget Support Document, shall include recommended expenditures of State funds from all Governmental and Proprietary Funds, as those funds are described in G.S. 143C-1-3. Except where provided otherwise by federal law, funds received from the federal government become State funds when deposited in the State treasury and shall be classified and accounted for in the Governor's budget recommendations no differently than funds from other sources.

...."

SECTION 35. G.S. 153A-155(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Jackson, Madison, Martin, McDowell, Montgomery, Moore, Nash, New Hanover, ~~New Hanover County District U~~, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson Counties, to New Hanover County District U, to Surry County District S, to Watauga County District U, to Wilkes County District K, to Yadkin County District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing District."

SECTION 36. G.S. 159-175.10 reads as rewritten:

"§ **159-175.10. Additional requirements for review of city financing application; communications service.**

The Commission shall apply additional requirements to an application for financing by a city or a joint agency under Part 1 of Article 20 of Chapter 160A of the General Statutes for the construction, operation, expansion, or repair of a communications system or other infrastructure for the purpose of offering communications service, as that term is defined in ~~G.S. 160A-340(2)~~, G.S. 160A-340(3), that is or will be competitive with communications service offered by a private communications service provider. This section does not apply to the repair, rebuilding, replacement, or improvement of an existing communications network, or equipment relating thereto, but does apply to the expansion of such existing network. The additional requirements are the following:

- (1) Prior to submitting an application to the Commission, a city or joint agency shall comply with the provisions of G.S. 160A-340.3 requiring at least two public hearings on the proposed communications service project and notice of the hearings to private communications service providers who have requested notice.
- (2) At the same time the application is submitted to the Commission, the city or joint agency shall serve a copy of the application on each person that provides competitive communications service within the city's jurisdictional boundaries or in areas adjacent to the city. No hearing on the application shall be heard by the Commission until at least 60 days after the application is submitted to the Commission.
- (3) Upon the request of a communications service provider, the Commission shall accept written and oral comments from competitive private communications service providers in connection with any hearing or other review of the application.
- (4) In considering the probable net revenues of the proposed communications service project, the Commission shall consider and make written findings on the reasonableness of the city or joint agency's revenue projections in light of the current and projected competitive environment for the services to be provided, taking into consideration the potential impact of technological innovation and change on the proposed service offerings and the level of demonstrated community support for the project.
- (5) The city or joint agency making the application to the Commission shall bear the burden of persuasion with respect to subdivisions (1) through (4) of this section."

SECTION 37. G.S. 163-258.30(a) reads as rewritten:

"(a) The State Board of Elections shall adopt rules and regulations to carry out the intent and purpose of ~~G.S. 163-278.23 and G.S. 163-278.24~~ G.S. 163-258.28 and G.S. 163-258.29 and

to ensure that a proper list of persons voting under said sections shall be maintained by the boards of elections, and to ensure proper registration records, and such rules and regulations shall not be subject to the provisions of Article 2A of Chapter 150B of the General Statutes."

SECTION 38. Section 6(c) of S.L. 2011-96 reads as rewritten:

"**SECTION 6.(c)** Notwithstanding the two-year term limitation in G.S. 135-48.20(m), as enacted by Senate Bill 323 of the 2011 Regular Session, the terms of initial appointees under G.S. 135-48.20 shall be as follows and shall begin January 1, 2012:

- (1) Two and one-half years. – Appointees under G.S. 135-48.20(i).
- (2) Three and one-half years. – Appointees not under G.S. 135-48.20(i)."

SECTION 39. Section 19.1(g) of S.L. 2011-145, as amended by Section 43(c) of S.L. 2011-391, reads as rewritten:

"**SECTION 19.1.(g)** The following statutes are amended by deleting the language "Crime Control and Public Safety" wherever it appears and substituting "Public Safety": G.S. 7A-343.1, 8-50.2, 14-86.1, 14-309.7, 14-309.11, 15B-3, 15B-6, 17C-3, 17C-6, 18B-101, 18B-110, 19-2.1, 20-17.7, 20-39.1, 20-49, 20-79.5, 20-81.12, 20-116, 20-118, 20-119, 20-125, 20-178.1, 20-183.9, 20-183.10, 20-184, 20-185, 20-187, 20-187.1, 20-187.3, 20-188, 20-189, 20-190, 20-191, 20-192, 20-195, 20-196, 20-196.3, 20-196.4, 20-377, 20-379, 20-380, 20-381, 20-382.2, 20-383, 20-387, 20-389, 20-390, 20-391, 20-392, 20-393, 20-396, 20-397, 58-32-1, 58-78-1, 66-165, 66-168, 104E-8, 105-259, 105-269.3, 105-449.44, 120-12.1, 120-70.94, 122C-408, 122C-409, 122C-411, 122C-414, 126-5, 127A-17.1, 127A-19, 127A-20, 127A-21, 127A-22, 127A-35, 127A-40, 127A-42, 127A-43, 127A-54, 127A-57, 127A-80, 127A-81, 127A-107, 127A-139, 127A-161, 127A-162, 127A-163, 127A-164, 127C-2, 130A-475, 143-166.13, 143-215.52, 143-215.56, 143-215.93A, 143-215.94GG, 143-215.94HH, 143-341, 143-355.1, 143-651, 143-652.1, 143-652.2, 143-654, 143-655, 143-658, 143-661, 143-664, 143-726, ~~143A-79.2, 143A-239, 143A-240, 143A-241, 143A-242, 143A-243, 143A-244, 143A-245,~~ 143B-2, 143B-6, 143B-181, 143B-394.15, 143B-417, 143B-426.22, 143B-477, 143B-478, 143B-479, 143B-480, 143B-480.1, 143B-480.2, 143B-480.3, 143B-490, 143B-491, 143B-492, 143B-495, 143B-496, 143B-497, 143B-498, 143B-499, 143B-499.2, 143B-499.4, 143B-499.7, 143B-508, 143B-508.1, Parts 8 and 9 of Article 11 of Chapter 143B of the General Statutes, 143B-510, 146-30, 147-12, 150B-1, 161-11.4, 166A-5, 166A-6, 166A-6.03, 166A-6.1, 166A-14, 166A-18, 166A-21, 166A-26, 166A-28, 166A-60, 166A-61, and 166A-62. In all other instances in which the term "Crime Control and Public Safety" appears in the General Statutes, the Revisor of Statutes shall replace that term with "Public Safety"."

SECTION 40. Section 25 of S.L. 2011-284 is repealed.

SECTION 41. The introductory language of Section 12(b) of S.L. 2011-326 reads as rewritten:

"**SECTION 12.(b)** ~~G.S. 7B-1110.1(a)~~G.S. 7B-1101.1(a) reads as rewritten:"

SECTION 42.(a) The prefatory language of Section 30 of S.L. 2011-391 reads as rewritten:

"**SECTION 30.** Section 13.22(b) of Session Law 2011-145 ~~reads as rewritten:~~ is rewritten to read:"

SECTION 42.(b) This section is retroactively effective July 1, 2011.

SECTION 43. The Revisor of Statutes may cause to be printed all explanatory comments of the drafters of S.L. 2011-339 and S.L. 2011-344 as the Revisor deems appropriate.

SECTION 44. The Revisor of Statutes may cause to be printed all explanatory comments of the drafters of S.L. 2011-341 as the Revisor deems appropriate.

PART II. OTHER AMENDMENTS

A. TECHNICAL CHANGES

SECTION 44.5. Any act of the 2011 Regular Session that refers to a bill of the "2012 Regular Session" shall be deemed to be a reference to a bill of the 2011 Regular Session.

SECTION 45.(a) G.S. 15A-1331A is recodified as G.S. 15A-1331.1.

SECTION 45.(b) G.S. 20-15.1 reads as rewritten:

"§ 20-15.1. Revocations when licensing privileges forfeited.

The Division shall revoke the license of a person whose licensing privileges have been forfeited under ~~G.S. 15A-1331A~~, G.S. 15A-1331.1, 50-13.12, and 110-142.2. If a revocation period set by this Chapter is longer than the revocation period resulting from the forfeiture of licensing privileges, the revocation period in this Chapter applies."

SECTION 45.(c) G.S. 20-179.3(b)(2) reads as rewritten:

"(b) Eligibility. –

...

(2) Any person whose licensing privileges are forfeited pursuant to ~~G.S. 15A-1331A~~G.S. 15A-1331.1 is eligible for a limited driving privilege if the court finds that at the time of the forfeiture, the person held either a valid drivers license or a drivers license that had been expired for less than one year and

- a. The person is supporting existing dependents or must have a drivers license to be gainfully employed; or
- b. The person has an existing dependent who requires serious medical treatment and the defendant is the only person able to provide transportation to the dependent to the health care facility where the dependent can receive the needed medical treatment.

The limited driving privilege granted under this subdivision must restrict the person to essential driving related to the purposes listed above, and any driving that is not related to those purposes is unlawful even though done at times and upon routes that may be authorized by the privilege."

SECTION 45.(d) G.S. 113-277(a4) reads as rewritten:

"(a4) The Wildlife Resources Commission shall order the surrender of any license or permit issued under this Article to a person whose licensing privileges have been forfeited under ~~G.S. 15A-1331A~~G.S. 15A-1331.1 for the period specified by the court."

SECTION 45.(e) If Senate Bill 707, 2011 Regular Session, becomes law, G.S. 15A-1331B, as enacted by that act, is recodified as G.S. 15A-1331.2.

SECTION 45.5. G.S. 18B-1305(a1), as enacted by Section 1 of S.L. 2012-4, reads as rewritten:

"(a1) Termination by a Small Brewery. – A brewery's authorization to distribute its own malt beverage products pursuant to ~~G.S. 18B-1104(7)~~G.S. 18B-1104(8) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction."

SECTION 45.7. G.S. 20-79.4(b)(170) reads as rewritten:

"(170) Purple Heart Recipient. – Issuable to a recipient of the Purple Heart award. The plate shall bear the phrase "Purple Heart Veteran, Combat ~~Wounded~~ and the letters "PH".Wounded." A person may obtain from the Division a special registration plate under this subdivision for the registered owner of a motor vehicle or a motorcycle. A motorcycle plate issued under this subdivision shall bear a depiction of the Purple Heart Medal and the phrase "Purple Heart Veteran, Combat Wounded.""

SECTION 46.(a) G.S. 66-421(a) reads as rewritten:

"(a) Issuance of Permits. – The sheriff of each county shall issue a nonferrous metals purchase permit to an applicant if the applicant (i) has a fixed site in the sheriff's county; (ii) declares on a form provided by the sheriff that the applicant is informed of and will comply

with the provisions of this Part; (iii) does not have a permit that has been revoked pursuant to ~~G.S. 66-324(b)~~ G.S. 66-424(b) at the time of the application; and (iv) has not been convicted of more than three violations of this Part. A permit shall be valid for 12 months and shall be valid only for fixed sites in the county of issuance. A permit shall be obtained for each fixed site at which nonferrous metals are purchased."

SECTION 46.(b) This section becomes effective October 1, 2012.

SECTION 47.(a) If House Bill 614, 2011 Regular Session, becomes law, G.S. 90-21.102, as enacted by that act, reads as rewritten:

"§ **90-21.102. Definitions.**

The following definitions apply in this Article:

...

(3) Health care provider. – Any person who:

...

m. Is licensed to practice as a physician, physician assistant, dentist, pharmacist, optometrist, registered nurse, licensed practical nurse, dental hygienist, or optician under provisions of law of another state of the United States comparable to the provisions referenced in sub-subdivisions a. through ~~n.l.~~ of this subdivision.

...

(5) Voluntary provision of health care services. – The provision of health care services by a health care provider in association with a sponsoring organization in which both of the following circumstances exist:

- a. The health care services are provided without charge to the recipient of the services or to a third party on behalf of the recipient.
- b. The health care provider receives no compensation or other consideration in exchange for the health care services provided.

For the purposes of this Article, the provision of health care services in ~~non-profit-nonprofit~~ community health centers, local health department facilities, free clinic facilities, or at a ~~providers-provider's~~ place of employment when the patient is referred by a ~~non-profit-nonprofit~~ community health referral service shall not be considered the voluntary provision of health care."

SECTION 47.(b) If House Bill 614, 2011 Regular Session, becomes law, G.S. 90-21.104(d)(1), as enacted by that act, reads as rewritten:

"(d) Each registered sponsoring organization has the duty and responsibility to do all of the following:

- (1) Except as provided in this subdivision, by no later than 14 days before a sponsoring organization initiates voluntary health care services in this State, the sponsoring organization shall submit to the Department a list containing the following information regarding each health care provider who is to provide voluntary health care services on behalf of the sponsoring organization during any part of the time period in which the sponsoring organization is authorized to provide voluntary health care services in the State:
 - a. Name.
 - b. Date of birth.
 - c. State of licensure.
 - d. License number.
 - e. Area of practice.
 - f. Practice address.

By no later than 3 days prior to voluntary health care services being rendered, a sponsoring organization may amend the list to add health care providers defined in G.S. 90-21.102(3)a. through ~~G.S. 90-21.102(3)m.~~G.S. 90-21.102(3)l."

SECTION 47.(c) This section is effective January 1, 2013.

SECTION 48. G.S. 115C-107.7(a1) reads as rewritten:

"(a1) Any corporal punishment administered on students with disabilities shall be consistent with the requirements of ~~G.S. 115C-391(a)(5).~~G.S. 115C-390.4."

SECTION 49. G.S. 115C-309(a) reads as rewritten:

"(a) Student Teacher and Student Teaching Defined. – A "student teacher" is any student enrolled in an institution of higher education approved by the State Board of Education for the preparation of teachers who is jointly assigned by that institution and a local board of education to student teach under the direction and supervision of a regularly employed certified teacher.

"Student teaching" may include those duties granted to a teacher by G.S. 115C-307 ~~and 115C-390~~ and any other part of the school program for which either the supervising teacher or the principal is responsible."

SECTION 50. The title of S.L. 2012-92 reads as rewritten:

"AN ACT PROVIDING THAT AFTER DECEMBER 31, 2012, LANDLORDS SHALL, WHEN INSTALLING A NEW SMOKE ALARM OR REPLACING AN EXISTING SMOKE ALARM, INSTALL A TAMPER RESISTANT, TEN YEAR LITHIUM BATTERY SMOKE ALARM EXCEPT IN CERTAIN CASES, ~~AND PROVIDING THAT LANDLORDS MAY DEDUCT FROM THE TENANT SECURITY DEPOSIT DAMAGE TO A SMOKE ALARM OR CARBON MONOXIDE ALARM,~~ AS RECOMMENDED BY THE NORTH CAROLINA CHILD FATALITY TASK FORCE."

SECTION 51. If Senate Bill 229, 2011 Regular Session, becomes law, then Part XXIV of that act reads as rewritten:

"PART XXIV. USE OF TVA SETTLEMENT FUNDS

"SECTION 30. Funds received by the State pursuant to the provisions of the Consent Decree entered into by the State in State of Alabama et al. v. Tennessee Valley Authority, Civil Action 3:11-cv-00170 in the United States District Court for the Eastern District of Tennessee and allocated to the Department of Agriculture and Consumer Services by the Committee Report to House Bill 950 shall be used exclusively to award grants for "Environmental Mitigation Projects" of the types specified in paragraph 128 of the Consent Decree in the following counties: Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, Yancey."

SECTION 51.5. If House Bill 494, 2011 Regular Session, becomes law, then G.S. 20-179(k2), as enacted in Section 9 of that act, reads as rewritten:

"(k2) Probationary Requirement for Abstinence and Use of Continuous Alcohol Monitoring. – The judge may order that as a condition of special probation for any level of offense under ~~G.S. 20-170~~G.S. 20-179 the defendant abstain from alcohol consumption, as verified by a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety."

SECTION 52. Section 5 of S.L. 2012-77 is rewritten to read:

"SECTION 5. Section 5 of S.L. 2008-90, as amended by Section 1 of S.L. 2010-36, reads as rewritten:"

SECTION 53. Sections 49 and 50 of S.L. 2012-56 are repealed.

SECTION 54. Section 2.2 of S.L. 2012-18 reads as rewritten:

"SECTION 2.2. ~~G.S. 161-10(8a)~~G.S. 161-10(a)(8a) is repealed."

SECTION 55.(a) G.S. 115C-12(38) and G.S. 115C-47(60) are repealed.

SECTION 55.(b) To ensure that the unique needs of students with immediate family members in the military are met, local boards of education shall collect and report to the State Board of Education by November 30, 2012, the following information for each school in the local school administrative unit:

- (1) The number of students who have an immediate family member who has served in the reserve or active components of the Armed Forces of the United States since September 1, 2001.
- (2) Whether during the relevant period the local school administrative unit employed at least one employee trained in the unique needs of children who have immediate family members in the military. An employee satisfies this requirement if the employee has received training on all of the following:
 - a. The number of children of members of the active or reserve components of the Armed Forces of the United States who live in the local school administrative unit.
 - b. Available curricula on military families.
 - c. The impact of deployments on the emotional and psychological well-being of the children and families.
 - d. Potential warning signs of emotional and mental health disorders, substance use disorders, suicide risks, child maltreatment, or domestic violence.
 - e. Appropriate resources to which students and their families may be referred as needed.
 - f. Scholarships for after-school and enrichment activities available through the United States Department of Defense, the National Guard, or the reserve components of the Armed Forces of the United States for the children of parents who are actively deployed.
- (3) The frequency with which the employee described in subdivision (2) of this subsection provided training to school administrators, nurses, nurses aides, counselors, social workers, and other personnel in the local school administrative unit during the relevant period, and the number of staff trained.

The State Board of Education shall report no later than December 15, 2012, to the Joint Legislative Education Oversight Committee and to the House of Representatives and Senate Appropriations Subcommittees on Education on information submitted to it pursuant to this section relating to the needs of students with immediate family members in the military.

SECTION 55.(c) G.S. 115C-288 is amended by adding a new subsection to read:

"(m) To Address the Unique Needs of Students With Immediate Family Members in the Military. – The principal shall develop a means for identifying and serving the unique needs of students who have immediate family members in the active or reserve components of the Armed Forces of the United States."

SECTION 55.5. If House Bill 950, 2011 Regular Session, becomes law, then Section 15.3A.(b) reads as rewritten:

"SECTION 15.3A.(b) Members. – The Commission shall consist of 12 members as follows:

- (1) The President Pro Tempore of the Senate shall appoint one representative from each of the following:
 - a. The public at large.
 - b. A county sheriff's ~~department~~ office.
 - c. A city or town police department.
- (2) The Speaker of the House of Representatives shall appoint one representative from each of the following:
 - a. The public at large.
 - b. A county sheriff's ~~department~~ office.
 - c. A city or town police department.
- (3) The Governor shall appoint one representative from the public at large.
- (4) The following persons, or their designees, shall serve as ex officio members of the Commission:

- a. The Secretary of Public Safety.
- b. The Secretary of Administration.
- c. The Secretary of Labor.
- d. The Secretary of Health and Human Services.
- e. The Attorney General."

SECTION 56. If House Bill 237, 2011 Regular Session, becomes law, Section 8(f) of that act reads as rewritten:

"**SECTION 8.(f)** Reports to Committee. – Whenever a State agency is required by law to report to the General Assembly or to any of its permanent, study, or oversight committees or subcommittees on matters affecting the ~~workforce development~~ workers' compensation system, the Department shall transmit a copy of the report to the cochairs of the Committee."

B. CLARIFYING/CONFORMING CHANGES

SECTION 57. G.S. 20-79.4(b)(11) reads as rewritten:

"(11) American Red Cross. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the ~~phrase "American Red Cross Saving Lives" and a red cross~~ phrases "Proud Supporter," "American Red Cross," and the official American Red Cross logo."

SECTION 59.(a) G.S. 42-51(a)(3) reads as rewritten:

"§ 42-51. **Permitted uses of the deposit.**

(a) Security deposits for residential dwelling units shall be permitted only for the following:

...

- (3) Damages as the result of the nonfulfillment of the rental period, except where the tenant terminated the rental agreement under G.S. 42-45, G.S. 42-45.1, or because the tenant was forced to leave the property because of the landlord's violation of Article 2A of Chapter 42 of the General Statutes or was constructively evicted by the landlord's violation of G.S. 42-42(a)."

SECTION 59.(b). G.S. 42-51(a)(2) reads as rewritten:

"§ 42-51. **Permitted uses of the deposit.**

(a) Security deposits for residential dwelling units shall be permitted only for the following:

...

- (2) Damage to the premises, including damage to or destruction of smoke ~~detectors~~ alarms or carbon monoxide ~~detectors~~ alarms."

SECTION 59.(c) Subsection (a) of this section becomes effective October 1, 2012. Subsection (b) of this section becomes effective December 1, 2012.

SECTION 60. G.S. 66-58(b) is amended by adding a new subdivision to read:

"§ 66-58. **Sale of merchandise or services by governmental units.**

...

- (b) The provisions of subsection (a) of this section shall not apply to:

...

(9a) The North Carolina Forest Service."

SECTION 60.5. G.S. 90-113.54 reads as rewritten:

"§ 90-113.54. **Posting of signs.**

(a) A retailer shall post a sign or placard in a clear and conspicuous manner in the area of the premises where the pseudoephedrine products are offered for sale substantially similar to the following: "North Carolina law strictly prohibits the purchase of more than ~~two packages (3.6 grams total)~~ 3.6 grams total of certain products containing pseudoephedrine per day, and more than ~~three packages (9 grams total)~~ 9 grams total of certain products containing pseudoephedrine within a 30-day period. This store will maintain a record of all sales of these products which may be accessible to law enforcement officers.

...."

SECTION 61. If Senate Bill 521, 2011 Regular Session, becomes law, G.S. 93A-83(c) reads as rewritten:

"(c) Required Contents of a Broker Price Opinion or Comparative Market Analysis. – A broker price opinion or comparative market analysis shall be in writing and conform to the standards provided in this Article that ~~may~~ shall include, but are not limited to, the following:

- (1) A statement of the intended purpose of the broker price opinion or comparative market analysis.
- (2) A brief description of the subject property and property interest to be priced.
- (3) The basis of reasoning used to reach the conclusion of the price, including the applicable market data or capitalization computation.
- (4) Any assumptions or limiting conditions.
- (5) A disclosure of any existing or contemplated interest of the broker issuing the broker price opinion, including the possibility of representing the landlord/tenant or seller/buyer.
- (6) The effective date of the broker price opinion.
- (7) The name and signature of the broker issuing the broker price opinion and broker license number.
- (8) The name of the real estate brokerage firm for which the broker is acting.
- (9) The signature date.
- (10) A disclaimer stating that "This opinion is not an appraisal of the market value of the property, and may not be used in lieu of an appraisal. If an appraisal is desired, the services of a licensed or certified appraiser shall be obtained. This opinion may not be used by any party as the primary basis to determine the value of a parcel of or interest in real property for a mortgage loan origination, including first and second mortgages, refinances, or equity lines of credit."
- (11) A copy of the assignment request for the broker price opinion or comparative market analysis."

SECTION 61.2. If House Bill 950, 2011 Regular Session, becomes law, then Section 24.11 of that act reads as rewritten:

"**SECTION 24.11.** Notwithstanding G.S. 105-449.80(a), for the period July 1, 2012, through June 30, 2013, the motor fuel excise tax rate may not exceed thirty-seven and one-half cents (37 1/2¢) a gallon. For the period beginning July 1, 2012, and ending August 1, 2012, a taxpayer is not liable for an over-collection or under-collection of the excise tax on motor fuel if the taxpayer made a good faith effort to comply with the law and collect the proper amount of tax and has, due to the change made under this section in the rate of tax imposed under G.S. 105-449.80(a), over-collected or under-collected the amount of excise tax that is due."

SECTION 61.5(a) If House Bill 462, 2011 Regular Session, becomes law, G.S. 116B-8, as enacted in Section 3 of the act, reads as rewritten:

"§ **116B-8. Employment of persons with specialized skills or knowledge.**

The Treasurer may employ the services of such independent consultants, real estate managers and other persons possessing specialized skills or knowledge as the Treasurer deems necessary or appropriate for the administration of this Chapter, including valuation, maintenance, upkeep, management, sale and conveyance of property and determination of sources of unreported abandoned property. The Treasurer may also employ the services of an attorney to perform a title search or to provide an accurate legal description of real property which the Treasurer has reason to believe may have escheated. Persons whose services are employed by the Treasurer pursuant to this section to determine sources and amounts of unreported property are subject to the same policies, including confidentiality and ethics, as employees of the Department of State Treasurer assigned to determine sources and amounts of unreported property. If the Treasurer contracts with any other person to conduct an audit under this Chapter, the audit shall not be performed on a contingent fee basis or any other similar

method that may impair an auditor's independence or the perception of the auditor's independence by the public. Notwithstanding the preceding sentence, the Treasurer may contract with any other person on a contingent fee basis to conduct audits of life insurance companies where the audit is being conducted for the purpose of identifying unclaimed death benefits or to conduct audits of holders of unredeemed bond funds. Compensation of persons whose services may be employed pursuant to this section on a contingent fee basis shall be limited to twelve percent (12%) of the final assessment."

SECTION 61.5.(b) If House Bill 462, 2011 Regular Session, becomes law, Section 6 of the act reads as rewritten:

"SECTION 6. This act becomes effective July 1, 2012, and applies to audits, determinations of liability, and assessments contracted for on or after that date. Units of local government and the Treasurer shall not renew contingency fee based contracts for these services after July 1, 2012. Sections 1, 3, and 3.1 of this act become effective October 1, 2012. The Treasurer shall not renew any contingency fee-based contracts for these services after October 1, 2012. The Treasurer shall not assign further audits on a contingency fee basis to an auditing firm under a contract that meets all the following conditions: (i) the contract would have been prohibited under this act had the contract been entered into after October 1, 2012, and (ii) the contract allows the assignment of audits on a discretionary basis by the Treasurer. Sections 2, 4, and 5 become effective July 1, 2013, and expire July 1, 2015. From July 1, 2013, until July 1, 2015, cities and counties shall not renew any contingency fee-based contracts for these services. From July 1, 2013, until July 1, 2015, cities and counties shall not assign further audits on a contingency fee basis to an auditing firm under a contract that meets all the following conditions: (i) the contract would have been prohibited under this act had the contract been entered into after July 1, 2013, and (ii) the contract allows the assignment of audits on a discretionary basis. The remainder of the act is effective when the act becomes law."

SECTION 62. If House Bill 438, 2011 Regular Session, becomes law, G.S. 130A-1.1(b) reads as rewritten:

"(b) A local health department shall ensure that the following 10 essential public health services are available and accessible to the population in each county served by the local health department:

- (1) Monitoring health status to identify community health problems.
- (2) Diagnosing and investigating health hazards in the community.
- (3) Informing, educating, and empowering people about health issues.
- (4) Mobilizing community partnerships to identify and solve health problems.
- (5) Developing policies and plans that support individual and community health efforts.
- (6) Enforcing laws and regulations that protect health and ensure safety.
- (7) Linking people to needed personal health care services and ~~assuring~~ ensuring the provision of health care when otherwise unavailable.
- (8) ~~Assuring~~ Ensuring a competent public health workforce and personal health care workforce.
- (9) Evaluating effectiveness, accessibility, and quality of personal and population-based health services.
- (10) Conducting research."

SECTION 62.1. G.S. 150B-43 reads as rewritten:

"§ 150B-43. Right to judicial review.

Any party or person aggrieved by the final decision in a contested case, and who has exhausted all administrative remedies made available to the party or person aggrieved by statute or agency rule, is entitled to judicial review of the decision under this Article, unless adequate procedure for judicial review is provided by another statute, in which case the review shall be under such other statute. Nothing in this Chapter shall prevent any party or person aggrieved from invoking any judicial remedy available to the party or person aggrieved under the law to test the validity of any administrative action not made reviewable under this Article.

Absent a specific statutory requirement, nothing in this Chapter shall require a party or person aggrieved to petition an agency for rule making or to seek or obtain a declaratory ruling before obtaining judicial review of a final decision or order made pursuant to G.S. 150B-34."

SECTION 62.5. G.S. 153A-316.1(a), as enacted by S.L. 2012-73, reads as rewritten:

"§ **153A-316.1. Urban research service district (URSD).**

(a) Standards. – The board of commissioners of a county may establish one or more urban research service districts ("URSD" as used in this Part) that meets the following standards:

- (1) The URSD is wholly within a county research and production service district located partly within that county.
- (2) The URSD is located wholly within that county.
- (3) The URSD is not contained within another URSD.
- (4) A petition requesting creation of the URSD signed by at least fifty percent (50%) of the owners of real property in the URSD who own at least fifty (50%) of total area of the real property in the URSD has been presented to the board of commissioners."

SECTION 63. Section 5 of S.L. 2011-236 reads as rewritten:

"**SECTION 5.** This act becomes effective October 1, 2011, and applies to agreements executed on or after that date. Agreements executed prior to October 1, 2011, remain subject to the laws in effect at the time the parties executed the ~~agreement~~agreement; differences in wording between procedures authorized to establish agreements under the laws repealed by this act and under the superseding laws enacted by this act clarify the permitted procedures under the repealed laws."

C. SUBSTANTIVE CHANGES

SECTION 63.3.(a) G.S. 7A-38.5 is amended by adding new subsections to read:

"(e) Except as provided in this subsection and subsection (f) of this section, each chief district court judge and district attorney shall refer any misdemeanor criminal action in district court that is generated by a citizen-initiated arrest warrant to the local mediation center for resolution, except for (i) any case involving domestic violence; (ii) any case in which the judge or the district attorney determine that mediation would be inappropriate; or (iii) any case being tried in a county in which mediation services are not available. The mediation center shall have 30 days to resolve each case and report back to the court with a resolution. The district attorney shall delay prosecution in order for the mediation to occur. If the case is not resolved through mediation within 30 days of referral, the court may proceed with the case as a criminal action. For purposes of this section, the term "citizen-initiated arrest warrant" means a warrant issued pursuant to G.S. 15A-304 by a magistrate or other judicial official based upon information supplied through the oath or affirmation of a private citizen.

"(f) Any prosecutorial district may opt out of the mandatory mediation under subsection (e) of this section if the district attorney files a statement with the chief district court judge declaring that subsection shall not apply within the prosecutorial district."

SECTION 63.3.(b) G.S. 7A-38.3D(m) reads as rewritten:

"(m) Dismissal Fee. – Where an agreement has been reached in mediation and the case will be dismissed, the defendant shall pay to the clerk the dismissal fee of court set forth in G.S. 7A-38.7. By agreement, all or any portion of the fee may be paid by a person other than the defendant. ~~The judge may in the judge's discretion waive the fee for good cause shown.~~"

SECTION 63.3.(c) This section becomes effective December 1, 2012, and applies to offenses committed on or after that date.

SECTION 63.5. G.S. 7A-41.1(b) reads as rewritten:

"(b) There shall be one and only one senior resident superior court judge for each district or set of districts as defined in subsection (a) of this section, who shall be:

- (1) Where there is only one regular resident superior court judge for the district, that judge; and
- (2) Where there are two or more regular resident superior court judges for the district or set of districts, ~~the Chief Justice of the Supreme Court shall designate one of the judges as senior resident superior court judge to serve in that capacity at the pleasure of the Chief Justice. In exercising the authority to appoint senior resident superior court judges pursuant to this subdivision, the Chief Judge shall consider the seniority, experience, and management competence of the regular resident superior court judges. In addition, the Chief Justice shall consult with the regular resident superior court judges, the chief district court judges, the members of the district bar, the clerks of court, district attorneys, and public defenders within the district.~~ the judge who, from among all the regular resident superior court judges of the district or set of districts, has the most continuous service as a regular resident superior court judge; provided if two or more judges are of equal seniority, the oldest of those judges shall be the senior regular resident superior court judge.
- (3) Where there is a set of districts, the Chief Justice of the Supreme Court shall designate one of the judges as senior resident superior court judge to serve in that capacity at the pleasure of the Chief Justice, if that set of districts are wholly contained in one county that is specified in law as the sole proper venue for certain actions."

SECTION 64. G.S. 18C-151(c) reads as rewritten:

"(c) Before a contract is awarded, the Director shall conduct a thorough background investigation of all of the following:

- (1) The potential contractor to whom the contract is to be awarded.
- (2) Any parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded.
- (3) All shareholders with a five percent (5%) or more interest in the potential contractor or parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded. For purposes of this subdivision, "shareholders" means any natural person or those individuals with capabilities to make operating decisions for the potential contractor or parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded.
- (4) All officers and directors of the potential contractor or parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded."

SECTION 65. Part 9 of Article 1 of Chapter 10B of the General Statutes is amended by adding a new section to read:

"§ 10B-72. Certain notarial acts validated when recommissioned notary failed to again take oath.

Any acknowledgment taken and any instrument notarized by a person who after recommissioning failed to again take the oath as a notary public 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 on or after August 28, 2010, and before January 12, 2012."

SECTION 65.3.(a) If Senate Bill 42, 2011 Regular Session, becomes law, the lead-in language of Section 6.1 of Senate Bill 42 reads as rewritten:

"~~SECTION 6.1.~~ G.S. 44A-23 ~~is amended to read as follows:~~ reads as rewritten:"

SECTION 65.3.(b) If both House Bill 1052, 2011 Regular Session, and Senate Bill 42, 2011 Regular Session, become law, G.S. 44A-23(c) reads as rewritten:

"§ 44A-23. Contractor's claim of lien on real property; perfection of subrogation rights of subcontractor.

...

(c) A lien waiver signed by the contractor ~~prior to the commencement of an action to enforce a perfected claim of lien on real property granted under this section before the occurrence of all of the actions specified in subsection (a1) and subdivision (5) of subsection (b) of this section~~ waives the subcontractor's right to enforce the contractor's claim of lien on real property, but does not affect the subcontractor's right to a claim of lien on funds or the subcontractor's right to a claim of lien on real property allowed under G.S. 44A-20(d)."

SECTION 65.3.(c) Subsection (b) of this section becomes effective April 1, 2013, and applies to improvements to real property for which the first furnishing of labor or materials at the site of the improvements is on or after that date.

SECTION 65.4.(a) G.S. 51-1 reads as rewritten:

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

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

- (1) a. In the presence of an ordained minister of any religious denomination, a minister authorized by a church, judge of the superior court, or a magistrate; and
 - b. With the consequent declaration by the ~~minister~~ minister, judge of the superior court, or magistrate that the persons are husband and wife; or
- (2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

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

SECTION 65.4.(b) This section becomes effective July 26, 2012, and expires July 30, 2012.

SECTION 65.5. If House Bill 237, 2011 Regular Session, becomes law, then G.S. 58-36-17, as enacted by House Bill 237, reads as rewritten:

"§ 58-36-17. Bureau to share information with the North Carolina Industrial Commission.

The Bureau shall provide to the North Carolina Industrial Commission information contained in the Bureau's records indicating the status of workers' compensation insurance coverage on North Carolina employers as reported to the Bureau by the Bureau's member companies. The North Carolina Industrial Commission shall take such steps, including obtaining software or software licenses, as are necessary to be able to receive and process such information from the Bureau. The records provided to the North Carolina Industrial Commission under this section shall be confidential and shall not be public records as that term is defined in ~~G.S. 132-1.~~ G.S. 132-1. Notwithstanding the previous sentence and with respect to policies becoming effective on and after January 1, 2012, the North Carolina Industrial Commission may release data showing workers compensation insurance policy information that includes only policy effective dates, policy cancellation dates, and policy reinstatement dates. This data shall not be confidential data and shall be a public record as that term is defined in G.S. 132-1. The North Carolina Industrial Commission shall use the information provided pursuant to this section only to carry out its statutory duties and obligations under The North Carolina Workers' Compensation Act. The Bureau shall be immune from civil liability for releasing information pursuant to this section, even if the information is erroneous, provided the Bureau acted in good faith and without malicious or willful intent to harm in releasing the information."

SECTION 65.8.(a) G.S. 89G-3 is amended by adding a new subdivision to read:

"(17) Any person who can document 10 years in business as an irrigation contractor as of January 1, 2009, can document competency in the practice of irrigation construction or irrigation contracting, as determined by the North Carolina Irrigation Contractors' Licensing 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, without the requirement of examination, provided that the person submits an application for licensure to the Board prior to October 1, 2012."

SECTION 65.8.(b) The North Carolina Irrigation Contractors' Licensing Board shall notify the North Carolina Cooperative Extension of the provision for licensure of experienced irrigation contractors without the requirement of an examination as provided in G.S. 89G-3(17) as quickly as practicable upon the effective date of this section.

SECTION 66. G.S. 93D-5(c) reads as rewritten:

"(c) No license shall be issued to any person until the person has served as an apprentice as set forth in G.S. 93D-9 for a period of at least one year; provided, that the one-year apprenticeship requirement shall ~~not be waived for persons~~ for the following:

- (1) Persons qualified under ~~G.S. 93D-6~~; persons ~~G.S. 93D-6~~.
- (2) Persons holding a permanent license as an audiologist under Article 22 of Chapter 90 of the General ~~Statutes~~-Statutes.
- (3) Persons holding a temporary license as an audiologist under Article 22 of Chapter 90 of the General Statutes who have undergone 250 hours of supervised activity fitting or selling hearing aids under the direct supervision of a Registered Sponsor.
- (4) Persons continuously licensed to fit or sell hearing aids in another state or jurisdiction for the preceding three ~~years~~; and ~~persons~~-years.
- (5) Persons who have worked full-time for one year in the office of and under the direct supervision of an otolaryngologist fitting or selling hearing aids."

SECTION 66.5.(a) G.S. 120-11.1 reads as rewritten:

"§ 120-11.1. Time of meeting.

The regular session of the Senate and House of Representatives shall be held biennially beginning at 9:00 A.M. on the second Wednesday in January next after their election, and on that day they shall meet solely to elect officers, adopt rules, and otherwise organize the session. When they adjourn that day, they stand adjourned until 12:00 noon on the third Wednesday after the second Monday in January next after their election."

SECTION 66.5.(b) G.S. 150B-21.3(d) reads as rewritten:

"(d) Legislative Day and Day of Adjournment. – As used in this section:

- (1) A "legislative day" is a day on which either house of the General Assembly convenes in regular session.
- (2) The "day of adjournment" of a regular session held in an odd-numbered year is the day the General Assembly adjourns by joint resolution or by operation of law for more than ~~10~~ 30 days.
- (3) The "day of adjournment" of a regular session held in an even-numbered year is the day the General Assembly adjourns sine die."

SECTION 66.7.(a) G.S. 120-30.10 reads as rewritten:

"§ 120-30.10. Creation; appointment of members; members ex officio.

(a) There is hereby created a Legislative Research Commission to consist of five Senators to be appointed by the President pro tempore of the Senate and five Representatives to be appointed by the Speaker of the House. The President pro tempore of the Senate and the Speaker of the ~~House~~-House, or their designees, shall be ex officio members of the Legislative Research Commission. Provided, that when the President of the Senate has been elected by the Senate from its own membership, then the President of the Senate shall make the appointments of the Senate members of the Legislative Research Commission, shall serve ex officio as a

member of the Commission and shall perform the duties otherwise vested in the President pro tempore by G.S. 120-30.13 and 120-30.14.

(b) ~~The cochairmen of the Legislative Research Commission~~ President Pro Tempore of the Senate and the Speaker of the House may appoint additional members of the General Assembly to work with the regular members of the Research Commission on study committees. The terms of the additional study committee members shall be limited by the same provisions as apply to regular commission members, and they may be further limited by the appointing authorities.

(c) ~~The cochairmen of the Legislative Research Commission~~ President Pro Tempore of the Senate and the Speaker of the House may appoint persons who are not members of the General Assembly to advisory subcommittees. The terms of advisory subcommittee members shall be limited by the same provisions as apply to regular Commission members, and they may be further limited by the appointing authorities."

SECTION 66.7.(b) G.S. 120-30.13 reads as rewritten:

"§ **120-30.13. Cochairmen; rules of procedure; quorum.**

The President pro tempore of the Senate and the Speaker of the ~~House~~ House, or their designees, shall serve as cochairmen of the Legislative Research Commission. The Commission shall adopt rules of procedure governing its meetings. Eight members, including ex officio members, shall constitute a quorum of the Commission."

SECTION 67. G.S. 146-30(c) reads as rewritten:

"(c) The amount or rate of such service charge shall be fixed by rules and regulations adopted by the Governor and approved by the Council of State, but as to any particular sale, lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount received from such sale, lease, rental, or other disposition. Notwithstanding any other provision of this Subchapter, the net proceeds derived from the sale of land or products of land owned by or under the supervision and control of the Wildlife Resources Commission, or acquired or purchased with funds of that Commission, shall be paid into the Wildlife Resources Fund. Provided, however, the net proceeds derived from the sale of land or timber from land owned by or under the supervision and control of the Department of Agriculture and Consumer Services shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Agriculture and Consumer Services, to be used for such specific capital improvement projects or other purposes as are provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. Provided further, the net proceeds derived from the sale of park land owned by or under the supervision and control of the Department of Environment and Natural Resources shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Administration to be used for the purpose of park land acquisition as provided by transfer of funds from those accounts in the Capital Improvement Appropriations Act. In the Capital Improvement Appropriations Act, line items for purchase of park and agricultural lands will be established for use by the Departments of Administration and Agriculture. The use of such funds for any specific capital improvement project or land acquisition is subject to approval by the Director of the Budget. No other use may be made of funds in these line items without approval by the General Assembly except for incidental expenses related to the project or land acquisition. Additionally with the approval of the Director of the Budget, either Department may request funds from the Contingency and Emergency Fund when the necessity of prompt purchase of available land can be demonstrated and funds in the capital improvement accounts are insufficient. Provided further, the net proceeds derived from the sale of any portion of the land owned by the State in or around the Butner Reservation on or after July 1, 1980, shall be deposited with the State Treasurer in a capital improvement account to the credit of the Department of Health and Human Services to make capital improvements on or to property owned by the State in the Butner Reservation subject to approval by the Office of State Budget and Management, and may be used to build industrial access roads to industries located or to be located on the Butner Reservation, to construct new city streets in the Butner Reservation, extend water and sewer

service on the Butner Reservation, repair storm drains on the Butner Reservation, and for other capital uses on the Reservation as determined by the Secretary. Provided further, notwithstanding any other provision of this Subchapter, the proceeds derived from the lease dispositions of land or facilities owned or under the supervision and control of East Carolina University's Division of Health Sciences for the delivery of health care services shall be deposited in clinical accounts at East Carolina University to be used to improve access to patient care."

SECTION 68.(a) G.S. 143-553(a) reads as rewritten:

"(a) All persons employed by an employing entity as defined by this Part who owe money to the State and whose salaries are paid in whole or in part by State funds must make full restitution of the amount owed as a condition of continuing employment; provided, however, that no employing entity shall terminate for failure to make full restitution the employment of such an employee who owes money to the University of North Carolina Health Care System or to East Carolina University's Division of Health Sciences for health care services."

SECTION 68.(b) G.S. 147-86.11(e) reads as rewritten:

"(e) Elements of Plan. – For moneys received or to be received, the statewide cash management plan shall provide at a minimum that:

- (1) Except as otherwise provided by law, moneys received by employees of State agencies in the normal course of their employment shall be deposited as follows:
 - a. Moneys received in trust for specific beneficiaries for which the employee-custodian has a duty to invest shall be deposited with the State Treasurer under the provisions of G.S. 147-69.3.
 - b. All other moneys received shall be deposited with the State Treasurer pursuant to G.S. 147-77 and G.S. 147-69.1.
- (2) Moneys received shall be deposited daily in the form and amounts received, except as otherwise provided by statute.
- (3) Moneys due to a State agency by another governmental agency or by private persons shall be promptly billed, collected and deposited.
- (4) Unpaid billings due to a State agency other than amounts owed by patients to the University of North Carolina Health Care System or East Carolina University's Division of Health Sciences shall be turned over to the Attorney General for collection no more than 90 days after the due date of the billing, except that a State agency need not turn over to the Attorney General unpaid billings of less than five hundred dollars (\$500.00), or (for institutions where applicable) amounts owed by all patients which are less than the federally established deductible applicable to Part A of the Medicare program, and instead may handle these unpaid bills pursuant to agency debt collection procedures.
- (4a) The University of North Carolina Health Care System and East Carolina University's Division of Health Sciences may turn over to the Attorney General for collection accounts owed by patients.
- (5) Moneys received in the form of warrants drawn on the State Treasurer shall be deposited by the State agency directly with the State Treasurer and not through the banking system, unless otherwise approved by the State Treasurer.
- (6) State agencies shall accept payment by electronic payment in accordance with G.S. 147-86.22 to the maximum extent possible consistent with sound business practices."

SECTION 68.(c) G.S. 147-86.23, as amended by Section 14 of S.L. 2012-78, reads as rewritten:

"§ 147-86.23. Interest and penalties.

A State agency shall charge interest at the rate established pursuant to G.S. 105-241.21 on a past-due account receivable from the date the account receivable was due until it is paid. A State agency shall add to a past-due account receivable a late payment penalty of no more than ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty for good cause shown. If another statute requires the payment of interest or a penalty on a past-due account receivable, this section does not apply to that past-due account receivable. This section does not apply to money owed to the University of North Carolina Health Care System or to East Carolina University's Division of Health Sciences for health care services or to the North Carolina Turnpike Authority for money owed to the Authority for tolls."

SECTION 69. Section 9(a) of Part IV of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws, Section 2 of S.L. 2001-402, and Section 1 of S.L. 2011-160, reads as rewritten:

"Sec. 9.(a) Distribution and Use of Proceeds. – The local administrative authority, acting on its own behalf or as agent for each taxing entity, shall distribute the proceeds of the taxes levied in this Part as provided in this subsection. The distribution shall be made by the 20th day of each month following the month in which the tax is collected.

...

- (4) Distribution to Charlotte for Convention and Visitor Promotion and Other Tourism-Related Purposes. –

...

- d. The Towns of Cornelius, Davidson, and Huntersville shall distribute on a quarterly basis to the Lake Norman Convention and Visitors Bureau from the portion of prepared food and beverage taxes received from the City of Charlotte for the purpose of tourism-marketing promotions an amount not less than the sum of the following:

1. Twenty-eight percent (28%) of the portion of occupancy tax net proceeds received from the local administrative authority.
2. Twenty-five percent (25%) of the portion of prepared food and beverage taxes received from the City of Charlotte."

SECTION 69.1. S.L. 2012-121 is amended by rewriting Section 1.4(a1) to read:

"**SECTION 1.4.(a1)** Notwithstanding subsection (c) of this section, no person holding any elected public office may be a member of the Authority."

SECTION 70. If House Bill 950, 2011 Regular Session, becomes law, then Section 10.9F(c)(2) reads as rewritten:

- "(2) The recipient (i) resides ~~either~~ in a private living arrangement, a residential facility licensed by the State of North Carolina as an adult care home, or a combination home as defined in ~~G.S. 131E-101(1a)~~.G.S. 131E-101(1a); or (ii) resides in a group home licensed under Chapter 122C of the General Statutes and under 10A NCAC 27G .5601 as a supervised living facility for two or more adults whose primary diagnosis is mental illness, a developmental disability, or substance abuse dependency, and is eligible to receive personal care services under the Medicaid State Plan."

SECTION 70.5.(a) G.S. 132-1.12 reads as rewritten:

"§ 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, (vii) e-mail address, or ~~(vii)–(viii)~~ any other identifying information on an application to participate in such program or other records related

to that program. Notwithstanding this subsection, the name of a minor who has received a scholarship or other local government-funded award of a financial nature from a local government is a public record.

(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 70.5.(b) G.S. 153A-345(a) reads as rewritten:

"(a) The board of commissioners may provide for the appointment and compensation, if any, of a board of adjustment consisting of at least five members, each to be appointed for three years. In appointing the original members of the board, or in filling vacancies caused by the expiration of the terms of existing members, the board of commissioners may appoint some members for less than three years to the end that thereafter the terms of all members do not expire at the same time. The board of commissioners may provide for the appointment and compensation, if any, of alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving on behalf of a regular member, has and may exercise all the powers and duties of a regular member. ~~If the board of commissioners does not zone the entire territorial jurisdiction of the county, each designated zoning area shall have at least one resident as a member of the board of adjustment.~~

A county may designate a planning board or the board of county commissioners to perform any or all of the duties of a board of adjustment in addition to its other duties."

SECTION 70.5.(c) This section applies to the County of Chatham only.

SECTION 71. Article 13A of Chapter 90 of the General Statutes is amended by adding a new section to read:

§ 90-210.25B. Persons who shall not be licensed under this Article.

(a) The board shall not issue or renew any licensure, permit, or registration to any person or entity who has been convicted of a sexual offense against a minor.

(b) For purposes of this Article, the term "sexual offense against a minor" means a conviction of any of the following offenses: G.S. 14-27.4A(a) (sex offense with a child; adult offender), G.S. 14-27.7A (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. 14-190.16 (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 prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), 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 shall also include a conviction of the following: any attempt, solicitation, or conspiracy to commit any of these offenses or any aiding and abetting any of these offenses. The term shall also include a conviction in another jurisdiction for an offense which if committed in this State has the same or substantially similar elements to an offense against a minor as defined by this section.

(c) If a person or entity holding a license, permit, or registration in another jurisdiction has the license revoked, suspended, or placed on probation because of a felony conviction other than those enumerated above, the board shall impose a sanction equal to or greater than to the sanction imposed by the other jurisdiction.

(d) If a person or entity holding a license, permit, or registration in another jurisdiction has the license revoked, suspended, or placed on probation because of conduct related to fitness

to practice as described in G.S. 90-210.25(e), the board shall impose a sanction equal to or greater than the sanction imposed by the other jurisdiction."

SECTION 71.5.(a) If House Bill 950, 2011 Regular Session, becomes law, Section 24.20 is repealed.

SECTION 71.5.(b) Section 52 of S.L. 2011-391 reads as rewritten:

"SECTION 28.12A. The Program Evaluation Division of the General Assembly shall conduct a comprehensive evaluation of the North Carolina Railroad Company, a North Carolina corporation of which the State is the sole shareholder and which is a discretely reported component unit of the State as defined by the Governmental Accounting Standards Board. The evaluation shall address, at a minimum, the following issues:

- (1) Whether the corporation is adhering to its stated corporate mission of maximizing the value of the corporation for the people of the State.
- (2) What economic development benefits have been provided by the corporation and for what costs.
- (3) An evaluation of the use of available cash by the corporation, including the purchase of real property used for investment purposes rather than paying dividends to the State.
- (4) The approximate value of the corporation's assets, based on a market valuation rather than historic or book value of assets.
- (5) The approximate value of the entire corporation as a going concern.
- (6) The effectiveness of the provisions of Chapter 124 of the General Statutes to allow the State to exercise its shareholder rights and to provide effective shareholder oversight of the corporation.
- (7) Whether the ownership of the corporation provides the State a reasonable return on its investment, attempting to consider both the tangible and intangible value provided by the corporation.
- (8) Whether the corporation should be sold, transferred under the jurisdiction of the Department of Transportation or another State agency, or maintain its corporate structure.
- (9) Whether the General Assembly should consider the possibility of repealing the corporate charter of the corporation by a special act, as allowed under Section 1 of Article VIII of the North Carolina Constitution.

For the purposes of this evaluation, the terms "State agency" or "agency" as used under Article 7C of Chapter 120 of the General Statutes shall include the North Carolina Railroad Company.

For the purposes of this evaluation, the Program Evaluation Division is hereby granted authority to exercise the State's shareholder right to inspect the corporate books and records of the North Carolina Railroad Company on behalf of the State.

~~From funds available to the Joint Legislative Transportation Oversight Committee, the Program Evaluation Division may hire consultants to aid it in its evaluation, including experts in appraisal and valuation.~~

The Program Evaluation Division shall report the results of its study to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Transportation Oversight Committee no later than November 1, 2012."

SECTION 71.5.(c) The Program Evaluation Division of the General Assembly shall study, in conjunction with the Department of Administration, the inventory of all State-owned lands and the issue of public ownership of lands submerged under navigable rivers in the State.

SECTION 71.5.(d) The Program Evaluation Division shall submit its findings and recommendations to the Joint Legislative Program Evaluation Oversight Committee no later than January 15, 2013.

SECTION 71.6. Section 13 of S.L. 2009-521, as amended by Section 24 of S.L. 2011-326, reads as rewritten:

"**SECTION 13.** Any natural hair care specialist who submits proof to the Board that the natural hair care specialist is actively engaged in the practice of a natural hair care specialist on the effective date of this act, passes an examination conducted by the Board and pays the required fee under G.S. 88B-20 shall be licensed without having to satisfy the requirements of G.S. 88B-10.1, enacted by Section 2 of this act. A cosmetic art shop that practices natural hair care only and that submits proof to the Board that the shop is actively engaged in the practice of natural hair care on the effective date of this act shall have ~~two years~~ five years from the date of this act to comply with the requirements of G.S. 88B-14. All persons who do not make application to the Board within ~~two years~~ five years of the effective date of this act shall be required to complete all training and examination requirements prescribed by the Board and to otherwise comply with the provisions of Chapter 88B of the General Statutes."

SECTION 71.8. If House Bill 837, 2011 Regular Session, becomes law, then Section 2 of that act reads as rewritten:

"**SECTION 2.** The State Board of Education shall work in cooperation with the American Heart Association, the American Red Cross, and other nationally recognized programs to develop a strategic plan to phase in successful completion of cardiopulmonary resuscitation instruction as a requirement for high school graduation by the 2014-2015 school year. The plan shall include costs of, and details regarding, procedures for:

- ...
- (3) Requiring successful completion of cardiopulmonary resuscitation instruction as a requirement for high school graduation by the ~~2013-2014~~ 2014-2015 school year.

...."

SECTION 79.10.(a) G.S. 105-130.47(k) reads as rewritten:

"(k) Sunset. – This section is repealed for qualifying expenses occurring on or after ~~January 1, 2014.~~ January 1, 2015."

SECTION 79.10.(b) G.S. 105-151.29(k) reads as rewritten:

"(k) Sunset. – This section is repealed for qualifying expenses occurring on or after ~~January 1, 2014.~~ January 1, 2015."

SECTION 72. Except where otherwise provided, this act is effective when it becomes law. G.S. 7A-41.1(b)(2), as amended in Section 63.5 of this act, applies to vacancies occurring on or after the date this act becomes effective.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 3:18 p.m. on the 17th day of July, 2012.

Session Law 2012-195

S.B. 655

AN ACT TO REQUIRE THAT DENTIST AGREEMENTS WITH MANAGEMENT COMPANIES CONFORM WITH THE DENTAL PRACTICE ACT AND TO ESTABLISH A TASK FORCE ON DENTAL MANAGEMENT ARRANGEMENT RULES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-40.2. Management arrangements.**

(a) The following definitions apply in this section:

- (1) Ancillary personnel. – Dental hygienists or dental assistants who assist licensed dentists in providing direct patient care.
- (2) Clinical. – Of or relating to the activities of a dentist as described in G.S. 90-29(b)(1)-(10).

- (3) Management arrangement. – Any one or more agreements or arrangements, alone or together, whether written or oral, between a management company and a dentist or professional entity whereby the management company provides services to assist in the development, promotion, delivery, financing, support, or administration of the dentist's or professional entity's dental practice.
- (4) Management company. – Any individual, business corporation, nonprofit corporation, partnership, limited liability company, limited partnership, or other legal entity that is not a professional entity or dentist which provides through one or more contractual arrangements any combination of management or business support services, including, but not limited to, accounting and financial services; collection, billing, and payment services; file and records maintenance; human resources services; assistance with the acquisition of fixed assets, including the locating and procurement of office space, facilities, and equipment; maintenance of offices, equipment, furniture, and fixtures; marketing and practice development; information technology; compliance with applicable federal, State, and local laws; and clerical services.
- (5) Professional entity. – A professional corporation, nonprofit corporation, partnership, professional limited liability company, professional limited partnership, or other entity or aggregation of individuals that is licensed or certified or otherwise explicitly permitted to practice dentistry under North Carolina General Statutes.
- (6) Unlicensed person. – Any person or entity other than a dentist licensed in this State or registered professional entity authorized to provide dental services under this Article.

(b) A management arrangement executed on or after January 1, 2013, is invalid unless there appears on the instrument evidencing, directly above or below the space or spaces provided for the signature of the parties, in such type size or distinctive marking that it appears more clearly and conspicuously than anything else on the document:

"WARNING – YOU HAVE THE RIGHT AND ARE ENCOURAGED TO HAVE THIS CONTRACT REVIEWED BY YOUR OWN LEGAL COUNSEL PRIOR TO SIGNING."

(c) No member of the Board shall be subject to examination in connection with any investigation, inquiry, or interview related to the Board's review of any management arrangement.

(d) For actions brought under G.S. 90-40.1, the venue shall be the superior court of any county in which acts constituting unlicensed or unlawful practice of dentistry are alleged to have been committed or in which there appear reasonable grounds to believe that they will be committed, in the county where at least one defendant in the action resides, or in Wake County.

(e) If investigative information in the possession of the Board, its employees, or agents indicates that a crime may have been committed, the Board may report the information to the appropriate law enforcement agency or district attorney of the district in which the offense was committed.

(f) The Board shall cooperate with and assist law enforcement agencies and the district attorney conducting a criminal investigation or prosecution of a licensee or person engaged in the unauthorized practice of dentistry, including a management company, by providing information that is relevant to the criminal investigation or prosecution to the investigating agency or district attorney. Information disclosed by the Board to an investigative agency or district attorney remains confidential and may not be disclosed by the investigating agency except as necessary to further the investigation.

(g) Nothing in this section shall affect the validity of any of the Board's rules or regulations which were in effect as of the effective date of this section, except to the extent that such rules or regulations directly conflict with the provisions of this section."

SECTION 2. G.S. 90-40.1(c) reads as rewritten:

"(c) The venue for actions brought under this section shall be the superior court of any county in which such acts constituting unlicensed or unlawful practice of dentistry are alleged to have been committed or in which there appear reasonable grounds to believe that they will be ~~committed or~~ committed, in the county where the defendants in such action ~~reside-reside, or in Wake County.~~"

SECTION 3.(a) The North Carolina State Board of Dental Examiners shall adopt rules and conform existing rules to the requirements of G.S. 90-40.2, as enacted in Section 1 of this act, after consideration of the documented recommendations of the task force established in this section.

SECTION 3.(b) There is established within the North Carolina State Board of Dental Examiners a task force on dental management arrangement rules. The task force shall consist of six members as follows:

- (1) A member of the North Carolina State Board of Dental Examiners.
- (2) A member of the North Carolina Dental Society.
- (3) A licensed dentist with a current management arrangement with a dental service organization, as recommended by the Alliance for Access to Dental Care.
- (4) A manager from a dental service organization with a current management arrangement with a North Carolina licensed dentist, as recommended by the Alliance for Access to Dental Care.
- (5) A licensed attorney with knowledge and experience of North Carolina contract law who is not affiliated with the dental industry, as recommended by the North Carolina Bar Association.
- (6) A small business owner who is not affiliated with the dental industry, as recommended by the North Carolina Chamber of Commerce.

The task force shall study and make recommendations on the review process for dental management arrangements which shall include: the timing of Board decisions; separate rules governing management arrangements that are being renewed or transferred, and the continuity of patient care during review of renewed or transferred arrangements; and any other matter necessary to clarify terms or procedures in statute or rule relating to management arrangements. The task force shall report its findings and any recommendations for rules to be adopted, as well as any statutory changes, to the Board by January 1, 2013, and shall terminate upon filing the report. The Board shall submit a written report on the findings and recommendations of the task force and the Board's proposed course of action to the General Assembly by February 1, 2013.

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

In the General Assembly read three times and ratified this the 29th day of June, 2012.

Became law upon approval of the Governor at 10:00 a.m. on the 19th day of July, 2012.

Session Law 2012-196

H.B. 799

AN ACT TO ALLOW LICENSURE BY ENDORSEMENT FOR MILITARY PERSONNEL AND MILITARY SPOUSES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 93B of the General Statutes is amended by adding a new section to read:

"§ 93B-15.1. Licensure for individuals with military training and experience; licensure by endorsement for military spouses; temporary license.

(a) Notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this State if, upon application to an occupational licensing board, the applicant satisfies the following conditions:

- (1) Has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification, or registration of the occupational licensing board from which the applicant is seeking licensure, certification, or registration in this State: completed a military program of training, completed testing or equivalent training and experience as determined by the board, and performed in the occupational specialty.
- (2) Has engaged in the active practice of the occupation for which the person is seeking a license, certification, or permit from the occupational licensing board in this State for at least two of the five years preceding the date of the application under this section.
- (3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.
- (4) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.

(b) Notwithstanding any other provision of law, an occupational licensing board, as defined in G.S. 93B-1, shall issue a license, certification, or registration to a military spouse to allow the military spouse to lawfully practice the military spouse's occupation in this State if, upon application to an occupational licensing board, the military spouse satisfies the following conditions:

- (1) Holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure, certification, or registration of the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.
- (2) Can demonstrate competency in the occupation through methods as determined by the Board, such as having completed continuing education units or having had recent experience for at least two of the five years preceding the date of the application under this section.
- (3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed.
- (4) Is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit.
- (5) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification, or registration in this State.

(c) All relevant experience of a military service member in the discharge of official duties or, for a military spouse, all relevant experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under subsection (a) or (b) of this section.

(d) A nonresident licensed, certified, or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified, or registered by an occupational licensing board in this State.

(e) Nothing in this section shall be construed to apply to the practice of law as regulated under Chapter 84 of the General Statutes.

(f) An occupational licensing board may issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified, or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection (a) or (b) of this section if that jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure, certification, or registration of an occupational licensing board in this State. The military-trained applicant or military spouse may practice under the temporary permit until a license, certification, or registration is granted or until a notice to deny a license, certification, or registration is issued in accordance with rules adopted by the occupational licensing board.

(g) An occupational licensing board may adopt rules necessary to implement this section.

(h) Nothing in this section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing licensure, certification, or registration requirements established by an occupational licensing board in this State.

(i) For the purposes of this section, the State Board of Education shall be considered an occupational licensing board when issuing teacher licenses under G.S. 115C-296.

(j) For the purposes of this section, the North Carolina Medical Board shall not be considered an occupational licensing board."

SECTION 2. Within one year from the effective date of this act, each occupational licensing board regulating an occupation in this State and subject to the provisions of Chapter 93B of the General Statutes shall implement the requirements of G.S. 93B-15.1, as enacted by Section 1 of this act.

SECTION 3. The Legislative Research Commission shall study the issue of allowing licensure by the North Carolina Medical Board for individuals with military training and experience, for military spouses by endorsement, and for temporary licenses for military-trained applicants or military-spouse applicants. The Commission shall make a report on this issue, including any recommendations or legislative proposals, to the 2013 Regular Session of the General Assembly upon its convening.

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, 2012.

Became law upon approval of the Governor at 11:14 a.m. on the 24th day of July, 2012.

Session Law 2012-197

H.B. 837

AN ACT TO MAKE SUCCESSFUL COMPLETION OF INSTRUCTION IN CPR AVAILABLE TO ALL STUDENTS WITH A PLAN TO PHASE IN COMPLETION OF CPR INSTRUCTION AS A HIGH SCHOOL GRADUATION REQUIREMENT BY 2015.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-81(e1)(1) reads as rewritten:

"(e1) School Health Education Program to Be Developed and Administered.

(1) A comprehensive school health education program shall be developed and taught to pupils of the public schools of this State from kindergarten through ninth grade. This program includes age-appropriate instruction in the following subject areas, regardless of whether this instruction is described as, or incorporated into a description of, "family life education", "family health education", "health education", "family living", "health", "healthful living curriculum", or "self-esteem":

a. Mental and emotional ~~health~~;health.

b. Drug and alcohol abuse ~~prevention~~;prevention.

- c. ~~Nutrition;~~Nutrition.
- d. ~~Dental health;~~health.
- e. ~~Environmental health;~~health.
- f. ~~Family living;~~living.
- g. ~~Consumer health;~~health.
- h. ~~Disease control;~~control.
- i. ~~Growth and development;~~development.
- j. First aid and emergency care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich maneuver by using hands-on training with mannequins so that students ~~become proficient in order to~~ pass a test approved by the American Heart Association, or American Red ~~Cross;~~Cross. Schools shall use for this purpose an instructional program developed by the American Heart Association, the American Red Cross, or other nationally recognized programs that is based on the most current national evidence-based emergency cardiovascular care guidelines for CPR. Schools shall maintain documentation in an electronic database that students have successfully completed CPR instruction to meet Healthful Living Essential Standards. Successful completion of instruction in CPR shall be a requirement for high school graduation by the 2014-2015 school year.
- k. Preventing sexually transmitted diseases, including HIV/AIDS, and other communicable ~~diseases;~~diseases.
- l. Reproductive health and safety ~~education;~~ and education.
- m. Bicycle safety.

As used in this subsection, "HIV/AIDS" means Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome."

SECTION 2. The State Board of Education shall work in cooperation with the American Heart Association, the American Red Cross, and other nationally recognized programs to develop a strategic plan to phase in successful completion of cardiopulmonary resuscitation instruction as a requirement for high school graduation by the 2014-2015 school year. The plan shall include costs of, and details regarding, procedures for:

- (1) Obtaining and maintaining documentation regarding students who successfully complete cardiopulmonary resuscitation instruction in the eighth grade in accordance with the Healthful Living Essential Standards previously adopted by the State Board of Education. Documentation efforts shall be initiated during the 2012-2013 school year.
- (2) Identifying students not successfully completing cardiopulmonary resuscitation instruction through Healthful Living Essential Standards and ensuring that those students successfully complete cardiopulmonary resuscitation instruction through other appropriate formats pursuant to G.S. 115C-81(e1)(1j). Identification of students needing cardiopulmonary resuscitation instruction and offering this instruction to those students shall begin during the 2013-2014 school year.
- (3) Requiring successful completion of cardiopulmonary resuscitation instruction as a requirement for high school graduation by the 2013-2014 school year.

The plan shall be implemented at the beginning of the 2014-2015 school year.

The State Board of Education shall report on this plan to the Joint Legislative Education Oversight Committee by December 15, 2013. The State Board of Education shall report on plan implementation to the Joint Legislative Education Oversight Committee by October 15, 2015.

SECTION 3. This act is effective when it becomes law and applies beginning with the 2012-2013 school year.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

Became law upon approval of the Governor at 10:41 a.m. on the 26th day of July, 2012.

Session Law 2012-198

H.B. 914

AN ACT TO PLACE AUTOMATIC EXTERNAL DEFIBRILLATORS (AEDS) IN ALL BUILDINGS AND FACILITIES THAT HOUSE STATE SERVICES, AGENCIES, AND INSTITUTIONS AND PROVIDE TRAINING FOR STATE EMPLOYEES IN THOSE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds the following:

- (1) According to the American Heart Association, an individual goes into cardiac arrest in the United States every two minutes. In North Carolina, twenty-three percent (23%) of all deaths are attributed to heart disease, 11,765 of which are as a result of cardiac arrest. Ventricular Fibrillation (VF) is a common rhythm for which cardiopulmonary resuscitation (CPR) and defibrillation are the only effective treatments. For victims with VF, survival rates are highest when immediate bystander CPR is provided and defibrillation occurs within three to five minutes of collapse. With every minute that passes, a victim's survival rate is reduced by seven percent (7%) to ten percent (10%) if no intervention measures are taken. An estimated ninety-five percent (95%) of cardiac arrest victims die before reaching the hospital. If intervention measures are taken, survival rates are much higher; when CPR and defibrillation are immediately performed, survival rates can double.
- (2) Eighty percent (80%) of all cardiac arrests occur in private or residential settings, and almost sixty percent (60%) are witnessed. Communities that have established and implemented public access defibrillation programs have achieved average survival rates for out-of-hospital cardiac arrest as high as forty-one percent (41%) to seventy-four percent (74%).
- (3) Wider use of defibrillators could save as many as 40,000 lives nationally each year. Successful public access defibrillation programs ensure that cardiac arrest victims will have an immediate recognition of cardiac arrest and activation of 911 followed by early CPR with an emphasis on compressions, rapid Automatic External Defibrillator (AED) use, effective advanced care, and coordinated care afterward.

SECTION 2.(a) There is created a Chain of Survival Public-Private Task Force (Task Force) with members appointed as follows:

- (1) Two Senators appointed by the President Pro Tempore of the Senate.
- (2) Two members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (3) One representative of the Office of Emergency Medical Services designated by the Secretary of Health and Human Services.
- (4) One representative of a local Emergency Medical Service designated by the Secretary of Health and Human Services.
- (5) One representative of the Heart Disease and Stroke Prevention Branch designated by the Secretary of Health and Human Services.
- (6) The Secretary of Administration or the Secretary's designee, ex officio.
- (7) A representative of the American Heart Association.

- (8) A representative of the American Red Cross.
- (9) A representative of the North Carolina Hospital Association.
- (10) A representative of the American College of Cardiology.
- (11) A representative of the College of Emergency Physicians.
- (12) A cardiac arrest survivor designated by the Secretary of Health and Human Services.

SECTION 2.(b) The Task Force shall identify, pursue, and achieve funding for the placement of AEDs and training of State employees to recognize and initiate life-saving actions to those experiencing an acute event (sudden cardiac arrest, heart attack, and stroke) in buildings and facilities that house State agencies, services, and institutions.

SECTION 2.(c) Members of the Task Force serve at the pleasure of the appointing authority. This section expires June 30, 2014.

SECTION 3.(a) Subject to the receipt of public-private funds for this purpose, the Department of Administration shall, in consultation with OEMS, AHA, and a qualified vendor/provider of AEDs and training services, develop and adopt policies and procedures relative to the placement and use of automated external defibrillators in State-owned and State-leased buildings. The Department of Administration shall also require that all State buildings, facilities, and institutions shall develop a Medical Emergency Response Plan that facilitates the following:

- (1) Effective and efficient communication throughout the State-owned and State-leased buildings.
- (2) Coordinated and practiced response plans.
- (3) Training and equipment for first aid and CPR.
- (4) Implementation of a lay rescuer AED program.

SECTION 3.(b) In addition, for each State building, facility, or institution there shall be developed and periodically updated a maintenance plan that takes the following into account:

- (1) Implementation of an appropriate training course in the use of AEDs, including the role of CPR.
- (2) Proper maintenance and testing of the devices.
- (3) Ensuring coordination with appropriate licensed professionals in the oversight of training of the devices.
- (4) Ensuring coordination with local emergency medical systems regarding the placement of AEDs in State buildings, facilities, or institutions where such devices are to be used.

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, 2012.

Became law upon approval of the Governor at 10:42 a.m. on the 26th day of July,

2012.

Session Law 2012-199

H.B. 585

AN ACT TO EXEMPT VEHICLES OF THE THREE NEWEST MODEL YEARS AND WITH LESS THAN SEVENTY THOUSAND MILES FROM EMISSIONS INSPECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-183.2(b)(3) reads as rewritten:

"(b) Emissions. – A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

...

- (3) It is (i) a 1996 or later ~~model~~ model and older than the three most recent model years or (ii) a 1996 or later model and has 70,000 miles or more on its odometer."

SECTION 2. The Department of Environment and Natural Resources shall submit for approval the emissions inspection program changes provided in Section 1 of this act to the United States Environmental Protection Agency as an amendment to the North Carolina State Implementation Plan under the federal Clean Air Act. If the United States Environmental Protection Agency approves the amendment, the Secretary of the Department of Environment and Natural Resources shall certify this approval to the Revisor of Statutes. In the certification, the Secretary of the Department of Environment and Natural Resources shall include the session law number of this act.

SECTION 3. After the Motor Vehicle Inspection and Law Enforcement System (MILES) is retired and the replacement system for MILES is operational, the Commissioner of Motor Vehicles shall certify to the Revisor of Statutes that MILES has been replaced. In the certification, the Commissioner of Motor Vehicles shall include the session law number of this act.

SECTION 4. Section 1 of this act becomes effective on the later of the following dates and applies to motor vehicles inspected, or due to be inspected, on or after the effective date of Section 1 of this act:

- (1) January 1, 2014.
- (2) The first day of a month that is 30 days after both of the following have occurred:
 - a. The Department of Environment and Natural Resources certifies to the Revisor of Statutes that the United States Environmental Protection Agency has approved the amendment to the North Carolina State Implementation Plan based on the change to the emissions inspection program provided in Section 1 of this act.
 - b. The Commissioner of Motor Vehicles certifies to the Revisor of Statutes that the Motor Vehicle Inspection and Law Enforcement System (MILES) has been replaced.

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 11:40 a.m. on the 1st day of August, 2012.

Session Law 2012-200

S.B. 229

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO (1) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REPORT ON THE INTEGRATION OF STORMWATER CAPTURE AND REUSE INTO STORMWATER REGULATORY PROGRAMS; (2) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE ADVISABILITY AND FEASIBILITY OF REALLOCATING WATER SUPPLY IN JOHN H. KERR RESERVOIR FROM HYDROPOWER STORAGE TO WATER SUPPLY STORAGE; (3) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY AND EVALUATE DEGRADABLE PLASTIC PRODUCTS AND THEIR POTENTIAL TO CONTAMINATE RECYCLED PLASTIC FEEDSTOCKS; (4) DIRECT THE DIVISION OF PUBLIC HEALTH IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REPORT ON THE ADMINISTRATION AND IMPLEMENTATION OF THE LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM FOR RENOVATION, REPAIR, AND PAINTING; (5) PROVIDE THAT TYPE 1 SOLID WASTE COMPOST FACILITIES

ARE NOT REQUIRED TO OBTAIN A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR DISCHARGE OF PROCESS WASTEWATER BASED SOLELY ON THE DISCHARGE OF STORMWATER THAT HAS COME INTO CONTACT WITH FEEDSTOCK, INTERMEDIATE PRODUCT, OR FINAL PRODUCT AT THE FACILITY; (6) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ACCEPT ALTERNATIVE MEASURES FOR STORMWATER CONTROL OTHER THAN PONDS THAT MEET CERTAIN CRITERIA AT AIRPORTS; (7) PROVIDE CONDITIONS TO ALLOW FOR TWO NONCONTIGUOUS PROPERTIES TO BE TREATED AS A SINGLE CONTIGUOUS PROPERTY FOR PURPOSES OF COMPLIANCE WITH LOCAL WATER SUPPLY WATERSHED PROGRAMS; (8) PROHIBIT TREATMENT OF LAND WITHIN RIPARIAN BUFFERS AS LAND OF THE STATE OR ITS SUBDIVISIONS; (8A) AMEND THE NEUSE AND TAR-PAMLICO RIVER BASIN BUFFER RULES TO ALLOW DEVELOPMENT ON EXISTING LOTS UNDER CERTAIN CONDITIONS; (9) PROVIDE FLEXIBILITY FOR THE DEVELOPMENT OF BASINWIDE WATER QUALITY MANAGEMENT PLANS FOR RIVER BASINS THAT HAVE WATERS DESIGNATED AS NUTRIENT SENSITIVE AND DELAY THE IMPLEMENTATION DEADLINE FOR LOCAL STORMWATER MANAGEMENT PROGRAMS UNDER THE JORDAN LAKE NEW DEVELOPMENT RULE; (10) AMEND THE DEFINITION OF COMMUNITY WATER SYSTEM; (11) ESTABLISH A VARIANCE PROCESS FOR CERTAIN SETBACK REQUIREMENTS FOR EXISTING PRIVATE DRINKING WATER WELLS; (12) REPEAL THE AUTHORITY OF THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADD COUNTIES TO THE MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM; (13) ALLOW THE COMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND TO BE USED FOR THE REMOVAL OF ABANDONED UNDERGROUND STORAGE TANKS THAT HAVE NOT LEAKED BUT POSE AN IMMINENT HAZARD; (14) REQUIRE SCRAP TIRE COLLECTORS TO VERIFY ACCESS TO A PERMITTED SCRAP TIRE DISPOSAL SITE BEFORE CONTRACTING WITH ANY SCRAP TIRE PROCESSOR; (15) REQUIRE SEPTAGE MANAGEMENT FIRMS TO PROVIDE IDENTIFICATION OF AND NOTICE TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES BEFORE PLACING A PUMPER TRUCK NOT PREVIOUSLY INCLUDED IN A PERMIT INTO SERVICE; (16) AMEND THE MARINE FISHERIES COMMISSION ADVISORY COMMITTEES; (17) PROVIDE THAT A SUPERMAJORITY OF THE MARINE FISHERIES COMMISSION IS REQUIRED TO OVERRIDE A RECOMMENDATION OF THE DIVISION OF MARINE FISHERIES REGARDING OVERFISHING OR REBUILDING OF FISH STOCKS; (18) PROVIDE CERTAIN PROTECTIONS TO GALAX AND VENUS FLYTRAP UNDER THE PLANT PROTECTION AND CONSERVATION ACT; (19) INCREASE THE CIVIL PENALTY FOR VIOLATIONS OF CERTAIN RULES OF THE WILDLIFE RESOURCES COMMISSION; (20) PROVIDE THAT FUNDS RECEIVED IN SETTLEMENT OF THE LAWSUIT FILED BY THE STATE AGAINST THE TENNESSEE VALLEY AUTHORITY BE USED EXCLUSIVELY IN CERTAIN COUNTIES; (21) AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS; AND (22) MAKE TECHNICAL AND CONFORMING CHANGES TO ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

PART I. REPORT ON STORMWATER CAPTURE AND REUSE

SECTION 1. G.S. 143-214.7(e) reads as rewritten:

"(e) ~~The Commission shall annually~~ On or before October 1 of each year, the Commission shall report to the Environmental Review Commission on the implementation of

this section, including the status of any stormwater control programs administered by State agencies and units of local ~~government, government.~~ The status report on shall include information on any integration of stormwater capture and reuse into stormwater control programs administered by State agencies and units of local government. ~~or before 1 October of each year."~~

PART II. STUDY REALLOCATION OF WATER SUPPLY IN KERR LAKE

SECTION 2.(a) The Department of Environment and Natural Resources shall study the advisability and feasibility of reallocating water supply in John H. Kerr Reservoir from hydropower storage to water supply storage. The study shall identify the projected future water supply needs that could be met by reallocation of the water supply and identify any potential impacts of a water supply reallocation. In conducting this study, the Department may:

- (1) In consultation with the Virginia Department of Environmental Quality, develop a Roanoke River Basin Water Supply plan that identifies future water supply needs in both the North Carolina and Virginia portions of the river basin. The water supply plan may provide the basis for determining water supply needs that could be met by reallocation of the water supply in John H. Kerr Reservoir.
- (2) Include a recommendation for an agreement between the State of North Carolina, the Commonwealth of Virginia, and the United States Army Corps of Engineers that will provide guidance for allocations and reallocations of water supply in John H. Kerr Reservoir to enhance the public health, safety, and welfare by fostering efficient and sustainable use of the water that meets economic, environmental, and other goals.
- (3) Identify and review any other issues the Department considers relevant to the topic.

SECTION 2.(b) In conducting this study, the Department shall consult with the Virginia Department of Environmental Quality, the United States Army Corps of Engineers, and any local government or other entity that receives an allocation from the John H. Kerr Reservoir for water supply or for other purposes as of the effective date of this section. The Department shall report its findings and recommendations to the Environmental Review Commission on or before June 1, 2014.

PART III. STUDY DEGRADABLE PLASTIC PRODUCTS

SECTION 3.(a) The Department of Environment and Natural Resources shall study and evaluate degradable plastic products and their potential to contaminate recycled plastic feedstocks. As part of its study, the Department shall develop and recommend standards for degradable plastic products, including labeling requirements and educational and outreach programs, to prevent contamination of recycled plastic feedstocks.

SECTION 3.(b) The Department of Environment and Natural Resources shall report its findings and recommendations developed pursuant to this section to the Environmental Review Commission on or before January 15, 2013.

PART IV. DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO REPORT ON THE ADMINISTRATION AND IMPLEMENTATION OF THE LEAD-BASED PAINT HAZARD MANAGEMENT PROGRAM FOR RENOVATION, REPAIR, AND PAINTING

SECTION 4.(a) On or before October 1, 2012, the Division of Public Health in the Department of Health and Human Services shall hire staff to administer and implement the Lead-Based Paint Hazard Management Program for Renovation, Repair, and Painting (Program).

SECTION 4.(b) The Division of Public Health in the Department of Health and Human Services shall conduct an analysis on the administration and implementation of the

Program. By January 31, 2013, the Division shall report its findings to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division. The report on the Program shall include all of the following:

- (1) Historical expenditures, collection, and revenues, each by category.
- (2) The amount of the running balance carried forward each year.
- (3) Staff classifications, job descriptions, and dates of hire.
- (4) Workload activities and performance standards.
- (5) Number of site visits and inspections conducted annually.
- (6) Number and description of projects authorized under the Program.
- (7) Number of complaints received, methods by which complaints are responded to, and the turnaround time required to respond to complaints.
- (8) Number and description of revocations, suspensions, or denials of certification.
- (9) Description of the educational materials and training activities provided.
- (10) Description of outreach activities and the amount of staff time spent on outreach activities.
- (11) Description of compliance assistance provided.

PART V. PROVIDE THAT TYPE 1 SOLID WASTE COMPOST FACILITIES ARE NOT REQUIRED TO OBTAIN A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR DISCHARGE OF PROCESS WASTEWATER BASED SOLELY ON THE DISCHARGE OF STORMWATER THAT HAS COME INTO CONTACT WITH FEEDSTOCK, INTERMEDIATE PRODUCT, OR FINAL PRODUCT AT THE FACILITY

SECTION 5. G.S. 143-214.7A(b) reads as rewritten:

"(b) Unless otherwise provided in this subsection, The~~the~~ Division of Water Quality shall clarify that stormwater is water that does not contact anything considered a feedstock, intermediate product, or final product of composting operations. Unless otherwise provided in this subsection, The~~the~~ Division of Water Quality shall clarify that wastewater is leachate and water that contacts feedstocks, intermediate products, or final product, of composting operations. The clarifications shall incorporate available scientifically valid information obtained from sampling and analyses of North Carolina composting facilities and from valid representative data from other states. In addition, the Division of Water Quality shall establish threshold quantities of feedstocks, intermediate products, and final products above which water quality permitting will be required. A Type 1 solid waste compost facility shall be subject only to applicable State stormwater requirements and federal stormwater requirements established pursuant to 33 U.S.C. § 1342(p)(3)(B). A Type 1 solid waste compost facility shall not be required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for discharge of process wastewater based solely on the discharge of stormwater that has come into contact with feedstock, intermediate product, or final product at the facility. For purposes of this section, "Type 1 solid waste compost facilities" are facilities that may receive yard and garden waste, silvicultural waste, untreated and unpainted wood waste, or any combination thereof. The Division of Water Quality shall not require water quality permitting for any Type I solid waste compost facility, unless required to do so by federal law."

PART VI. DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ACCEPT ALTERNATIVE MEASURES OF STORMWATER CONTROL AT PUBLIC AIRPORTS

SECTION 6. G.S. 143-214.7 is amended by adding two new subsections to read:

"(c3) In accordance with the Federal Aviation Administration August 28, 2007, Advisory Circular No. 150/5200-33B (Hazardous Wildlife Attractants on or Near Airports), the Department shall not require the use of stormwater retention ponds, stormwater detention

ponds, or any other stormwater control measure that promotes standing water in order to comply with this section at public airports that support commercial air carriers or general aviation services. Development projects located within five statute miles from the farthest edge of an airport air operations area, as that term is defined in 14 C.F.R. § 153.3 (July 2011 Edition), shall not be required to use stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water in order to comply with this section. Existing stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water in order to comply with this section located at public airports or that are within five statute miles from the farthest edge of an airport operations area may be replaced with alternative measures included in the Division of Water Quality's Best Management Practice Manual chapter on airports. In order to be approved by the Department, alternative measures or management designs that are not expressly included in the Division of Water Quality's Best Management Practice Manual shall provide for equal or better stormwater control based on the pre- and post-development hydrograph. Any replacement of existing stormwater retention ponds, stormwater detention ponds, or any other stormwater control measure that promotes standing water shall be considered a minor modification to the State general stormwater permit.

(c4) The Department shall deem runways, taxiways, and any other areas that provide for overland stormwater flow that promote infiltration and treatment of stormwater into grassed buffers, shoulders, and grass swales permitted pursuant to the State post-construction stormwater requirements."

PART VII. PROVIDE CONDITIONS TO ALLOW FOR TWO NONCONTIGUOUS PROPERTIES TO BE TREATED AS A SINGLE CONTIGUOUS PROPERTY FOR PURPOSES OF COMPLIANCE WITH LOCAL WATER SUPPLY WATERSHED PROGRAMS

SECTION 7. G.S. 143-214.5 is amended by adding a new subsection to read:

"(d2) A local government implementing a water supply watershed program shall allow an applicant to average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:

- (1) The properties are within the same water supply watershed. If one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.
- (2) Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.
- (3) Vegetated buffers on both properties meet the minimum statewide water supply watershed protection requirements.
- (4) Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- (5) Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.
- (6) The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the local government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the

areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deed and shall be irrevocable.

- (7) Development permitted under density averaging and meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.
- (8) A special use permit or other such permit or certificate shall be obtained from the local Watershed Review Board or Board of Adjustment to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have record of how the watershed regulations were applied to the properties."

PART VIII. PROHIBIT TREATMENT OF LAND WITHIN RIPARIAN BUFFERS AS LAND OF THE STATE OR ITS SUBDIVISIONS

SECTION 8.(a) G.S. 143-214.23 is amended by adding a new subsection to read:

"§ 143-214.23. Riparian Buffer Protection Program: Delegation of riparian buffer protection requirements to local governments.

...

(e1) Units of local government shall not treat the land within a riparian buffer as if the land is the property of the State or any of its subdivisions unless the land or an interest therein has been acquired by the State or its subdivisions by a conveyance or by eminent domain.

...."

PART VIIIA. AMEND THE NEUSE AND TAR-PAMLICO RIVER BASIN BUFFER RULES TO ALLOW DEVELOPMENT ON EXISTING LOTS UNDER CERTAIN CONDITIONS

SECTION 8.(b) Section 17(c) of S.L. 2011-394 reads as rewritten:

"SECTION 17.(c) Implementation. – The riparian buffer requirements of the Neuse River Basin Riparian Buffer Rule and the Tar-Pamlico River Basin Riparian Buffer Rule shall apply to development of an existing lot located adjacent to surface waters in the ~~coastal area~~ Neuse and Tar-Pamlico River basins as provided in this section. Where application of the riparian buffer requirements would preclude construction of a single-family residence and necessary infrastructure, such as an on-site wastewater system, the single-family residence may encroach on the buffer if all of the following conditions are met:

- (1) The residence is set back the maximum feasible distance from the top of the bank, rooted herbaceous vegetation, normal high-water level-level, or normal water level, whichever is applicable, on the existing lot and designed to minimize encroachment into the riparian buffer.
- (2) The residence is set back a minimum of 30 feet landward of the top of the bank, rooted herbaceous vegetation, normal high-water level-level, or normal water level, whichever is applicable.
- (3) Stormwater generated by new impervious surface within the riparian buffer is treated and diffuse flow of stormwater is maintained through the buffer.
- (4) If the residence will be served by an on-site wastewater system, no part of the septic tank or drainfield may encroach into the riparian buffer.

The method for measuring the setbacks required under subdivisions (1) and (2) of this section shall be consistent with the method for measuring the applicable buffer as provided in 15A NCAC 02B .0233(4) and 15A NCAC 02B .0259(4)."

PART IX. PROVIDE FLEXIBILITY FOR THE DEVELOPMENT OF BASINWIDE WATER QUALITY MANAGEMENT PLANS THAT HAVE WATERS DESIGNATED AS NUTRIENT SENSITIVE AND DELAY THE IMPLEMENTATION DEADLINE

FOR LOCAL STORMWATER MANAGEMENT PROGRAMS UNDER THE JORDAN LAKE NEW DEVELOPMENT RULE

SECTION 9.(a) G.S. 143-215.1(c6) reads as rewritten:

"(c6) For surface waters that the Commission classifies as nutrient sensitive waters (NSW) on or after 1 July 1997, the Commission shall establish a date by which facilities that were placed into operation prior to the date on which the surface waters are classified NSW or for which an authorization to construct was issued prior to the date on which the surface waters are classified NSW must comply with subsections (c1) and (c2) of this section. The Commission shall establish the compliance ~~date~~ schedule at the time of the classification. ~~The Commission shall not establish a compliance date that is more than five years after the date of the classification. The Commission may extend the compliance date as provided in G.S. 143-215.1B. A request to extend a compliance date shall be submitted within 120 days of the date on which the Commission reclassifies a surface water body as NSW.~~"

SECTION 9.(b) G.S. 143-215.8B reads as rewritten:

"§ 143-215.8B. Basinwide water quality management plans.

(a) The Commission shall develop and implement a basinwide water quality management plan for each of the 17 major river basins in the State. In developing and implementing each plan, the Commission shall consider the cumulative impacts of all of the following:

- (1) All activities across a river basin and all point sources and nonpoint sources of pollutants, including municipal wastewater facilities, industrial wastewater systems, septic tank systems, stormwater management systems, golf courses, farms that use fertilizers and pesticides for crops, public and commercial lawns and gardens, atmospheric deposition, and animal operations.
 - (2) All transfers into and from a river basin that are required to be registered under G.S. 143-215.22H.
- (b) Each basinwide water quality management plan shall:
- (1) Provide that all point sources and nonpoint sources of pollutants jointly share the responsibility of reducing the pollutants in the State's waters in a fair, reasonable, and proportionate manner, using computer modeling and the best science and technology reasonably available and considering future anticipated population growth and economic development.
 - (2) If any of the waters located within the river basin are designated as nutrient sensitive waters, then the basinwide water quality management plan shall establish a goal to reduce the average annual mass load of nutrients that are delivered to surface waters within the river basin from point and nonpoint sources. The Commission shall establish a nutrient reduction goal for the nutrient or nutrients of concern that will result in improvements to water quality such that the designated uses of the water, as provided in the classification of the water under G.S. 143-214.1(d), are not impaired. The plan shall require ~~that~~ incremental progress toward achieving the ~~goal~~ goal ~~be demonstrated each year. The Commission shall develop a five-year plan to achieve the goal.~~ In developing the plan, the Commission shall determine and allow appropriate credit toward achieving the goal for reductions of water pollution by point and nonpoint sources through voluntary measures.

(c) The Commission shall review and revise its 17 basinwide water quality management plans at least every ~~five~~ 10 years to reflect changes in water quality, improvements in modeling methods, improvements in wastewater treatment technology, and advances in scientific knowledge and, as need to support designated uses of water, modifications to management strategies.

(d) The Commission and the Department shall each report on or before 1 October of each year on an annual basis to the Environmental Review Commission on the progress in

developing and implementing basinwide water quality management plans and on increasing public involvement and public education in connection with basinwide water quality management planning. The report to the Environmental Review Commission by the Department shall include a written statement as to all concentrations of heavy metals and other pollutants in the surface waters of the State that are identified in the course of preparing or revising the basinwide water quality management plans.

(e) A basinwide water quality management plan is not a rule and Article 2A of Chapter 150B of the General Statutes does not apply to the development of basinwide water quality management plans. Any water quality standard or classification and any requirement or limitation of general applicability that implements a basinwide water quality management plan is a rule and must be adopted as provided in Article 2A of Chapter 150B of the General Statutes."

SECTION 9.(c) Definition. – As used in this act, "New Development Rule 15A NCAC 02B .0265" means 15A NCAC 02B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008.

SECTION 9.(d) New Development Rule 15A NCAC 02B .0265. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to subsection (f) of this section, the Commission and the Department shall implement New Development Rule 15A NCAC 02B .0265, as provided in subsection (e) of this section.

SECTION 9.(e) Implementation. – Notwithstanding sub-subdivision (d) of subdivision (4) of New Development Rule 15A NCAC 02B .0265, by August 10, 2014, within three months after the Commission's approval of a local program, or upon the Division's first renewal of a local government's NPDES stormwater permit, whichever occurs later, the affected local government shall complete adoption of and implement its local stormwater management program.

SECTION 9.(f) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace New Development Rule 15A NCAC 02B .0265. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (e) of this section. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 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 9.(g) Sunset. – Subsection (e) of this section expires on the date that rules adopted pursuant to subsection (f) of this section become effective.

PART X. AMEND THE DEFINITION OF COMMUNITY WATER SYSTEM

SECTION 10. G.S. 130A-313(10) reads as rewritten:

"(10) "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system serves 15 or more service connections or which regularly serves 25 or more individuals. The term includes:

- a. Any collection, treatment, storage or distribution facility under control of the operator of the system and used primarily in connection with the system; and
- b. Any collection or pretreatment storage facility not under the control of the operator of the system that is used primarily in connection with the system.

A public water system is either a "community water system" or a "noncommunity water system" as follows:

- a. "Community water system" means a public water system ~~that serves 15 or more service connections or that~~ that serves at least 15 service

connections used by year-round residents or regularly serves at least 25 year-round residents.

- b. "Noncommunity water system" means a public water system that is not a community water system.

A connection to a system that delivers water by a constructed conveyance other than a pipe is not a connection within the meaning of this subdivision under any one of the following circumstances:

- a. The water is used exclusively for purposes other than residential uses. As used in this subdivision, "residential uses" mean drinking, bathing, cooking, or other similar uses.
- b. The Department determines that alternative water to achieve the equivalent level of public health protection pursuant to applicable drinking water rules is provided for residential uses.
- c. The Department determines that the water provided for residential uses is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable drinking water rules."

PART XI. ESTABLISH A VARIANCE PROCESS FOR SETBACK DISTANCES FROM EXISTING PRIVATE DRINKING WATER WELLS

SECTION 11.(a) Variance from Setbacks for Existing Private Drinking Water Wells. –

- (1) The Department of Health and Human Services may grant a variance from the minimum horizontal separation distances from existing private drinking water wells set out in 15A NCAC 02C .0107(a)(2) or 15A NCAC 02C .0107(a)(3) upon finding that:
- a. The well was constructed and completed on or before July 1, 2008.
- b. The Department determines that continued use of the well will not endanger human health and welfare or groundwater.
- c. It is impracticable, taking into consideration feasibility and cost, for the well to comply with the minimum horizontal separation distance set out in the applicable sub-subpart of 15 NCAC 02C .0107(a)(2) and 15A NCAC 02C .0107(a)(3).
- d. There is no reasonable alternative source of drinking water available.
- (2) A variance from the minimum horizontal separation distances set out in 15A NCAC 02C .0107(a)(2) or 15A NCAC 02C .0107(a)(3) shall require that the existing private drinking water well meet the following requirements:
- a. The well shall comply with the minimum horizontal separation distances set out in 15A NCAC 02C .0107(a)(2) or 15A NCAC 02C .0107(a)(3) to the maximum extent practicable.
- b. The well is inspected by the Department or the applicable local health department and is determined to be in good repair.
- c. The well shall comply with all other requirements for private drinking water wells set out in 15A NCAC 02C .0300.

SECTION 11.(b) Rule Making. – The Commission for Public Health shall adopt rules that are substantively identical to the provisions of subsection (a) of this section. 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 11.(c) Effective Date. – Subsection (a) of this section expires when permanent rules to replace subsection (a) of this section have become effective, as provided by subsection (b) of this section.

PART XII. REPEAL ENVIRONMENTAL MANAGEMENT COMMISSION AUTHORITY TO ADD COUNTIES TO THE MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM

SECTION 12.(a) G.S. 143-215.107A(d) is repealed.

SECTION 12.(b) G.S. 20-183.2(c) reads as rewritten:

- "(c) Definitions. – The following definitions apply in this Part:
- (1) Electronic inspection authorization. – An inspection authorization that is generated electronically through the electronic accounting system that creates a unique nonduplicating authorization number assigned to the vehicle's inspection receipt upon successful passage of an inspection. The term "electronic inspection authorization" shall include the term "inspection sticker" during the transition period to use of electronic inspection authorizations.
 - (2) Emissions county. – A county listed in G.S. 143-215.107A(c) ~~or designated by the Environmental Management Commission pursuant to G.S. 143-215.107A(d)~~ and certified to the Commissioner of Motor Vehicles as a county in which the implementation of a motor vehicle emissions inspection program will improve ambient air quality.
 - (3) Federal installation. – An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

PART XIII. ALLOW THE COMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUND TO BE USED FOR THE REMOVAL OF ABANDONED UNDERGROUND STORAGE TANKS THAT HAVE NOT LEAKED BUT POSE AN IMMINENT HAZARD

SECTION 13.(a) G.S. 143-215.94B is amended by adding a new subsection to read:

"(b5) The Commercial Fund may be used by the Department for the payment of costs necessary to render harmless any commercial underground storage tank from which a discharge or release has not occurred but which poses an imminent hazard to the environment if the owner or operator cannot be identified or located, or if the owner or operator fails to take action to render harmless the underground storage tank within 90 days of having been notified of the imminent hazard posed by the underground storage tank. The Secretary shall seek to recover the costs of the action from any owner or operator as provided in G.S. 143-215.94G."

SECTION 13.(b) G.S. 143-215.94D(b2) reads as rewritten:

"(b2) The Noncommercial Fund may be used by the Department for the payment of costs necessary to render harmless any ~~commercial or noncommercial~~ underground storage tank from which a discharge or release has not occurred but which poses an imminent hazard to the environment if the owner or operator cannot be identified or located, or if the owner or operator fails to take action to render harmless the underground storage tank within 90 days after having been notified of the imminent hazard posed by the underground storage tank. The Secretary ~~may~~ shall seek to recover the costs of the action from the owner or operator as provided in G.S. 143-215.94G."

SECTION 13.(c) G.S. 143-215.94G(d) is amended by adding a new subdivision to read:

"(d) The Secretary shall seek reimbursement through any legal means available, for:

...

- (6) The amounts provided for in G.S. 143-215.94B(b5) and G.S. 143-215.94D(b2)."

PART XIV. REQUIRE SCRAP TIRE COLLECTORS TO VERIFY ACCESS TO A PERMITTED SCRAP TIRE DISPOSAL SITE BEFORE CONTRACTING WITH ANY SCRAP TIRE PROCESSOR

SECTION 14.(a) G.S. 130A-309.57 reads as rewritten:

"§ 130A-309.57. **Scrap tire disposal program.**

(a) The owner or operator of any scrap tire collection site shall, within six months after October 1, 1989, provide the Department with information concerning the site's location, size, and the approximate number of scrap tires that are accumulated at the site and shall initiate steps to comply with subsection (b) of this section.

(b) On or after July 1, 1990:

(1) A person may not maintain a scrap tire collection site or a scrap tire disposal site unless the site is permitted.

(2) It is unlawful for any person to dispose of scrap tires in the State unless the scrap tires are disposed of at a scrap tire collection site or at a tire disposal site, or disposed of for processing at a scrap tire processing facility.

(c) ~~By January 1, 1990, the~~The Commission shall adopt rules to carry out the provisions of this section. Such rules shall:

(1) Provide for the administration of scrap tire collector and collection center permits and scrap tire disposal site permits, which may not exceed two hundred fifty dollars (\$250.00) ~~annually;~~annually.

(2) Set standards for scrap tire processing facilities and associated scrap tire sites, scrap tire collection centers, and scrap tire ~~collectors;~~collectors.

(3) Authorize the final disposal of scrap tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal.

(4) Provide that permitted scrap tire collectors may not contract with a scrap tire processing facility unless the processing facility documents that it has access to a facility permitted to receive scrap tires.

(d) A permit is not required for:

(1) A tire retreading business where fewer than 1,000 scrap tires are kept on the business premises;

(2) A business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises; or

(3) A retail tire-selling business which is serving as a scrap tire collection center if fewer than 1,000 scrap tires are kept on the business premises.

(e) The Department shall encourage the voluntary establishment of scrap tire collection centers at retail tire-selling businesses, scrap tire processing facilities, and solid waste disposal facilities, to be open to the public for the deposit of used and scrap tires. The Department may establish an incentives program for individuals to encourage them to return their used or scrap tires to a scrap tire collection center."

SECTION 14.(b) The Department of Environment and Natural Resources shall initiate rule making to comply with the provisions of this section by October 1, 2012.

PART XV. REQUIRE SEPTAGE MANAGEMENT FIRMS TO PROVIDE IDENTIFICATION OF AND NOTICE TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES BEFORE PLACING A PUMPER TRUCK NOT PREVIOUSLY INCLUDED IN A PERMIT INTO SERVICE

SECTION 15. G.S. 130A-291.1 is amended by adding a new subsection to read:

"§ 130A-291.1. **Septage management program; permit fees.**

...

(h1) The annual permit application shall identify the pumper trucks to be used by the septage management firm. A permitted septage management firm shall notify the Department

within 10 days of placing a pumper truck in service that was not previously included in a permit issued to the firm and shall make the pumper truck available for inspection by the Department. A septage management firm is not prohibited from use of a pumper truck that meets the requirements of the rules adopted by the Commission prior to inspection by the Department.

...."

PART XVI. AMEND THE MARINE FISHERIES COMMISSION ADVISORY COMMITTEES

SECTION 16.(a) G.S. 143B-289.57 reads as rewritten:

"§ 143B-289.57. Marine Fisheries Commission Advisory Committees established; members; selection; duties.

...

(b) The Chair of the Commission shall appoint the following standing advisory committees:

- (1) The Finfish Committee, which shall consider matters concerning finfish.
- (2) ~~The Crustacean Committee, which shall consider matters concerning shrimp and crabs.~~
- (3) ~~The Shellfish Committee, which shall consider matters concerning oysters, clams, scallops, and other molluscan shellfish.~~
- (3a) The Shellfish/Crustacean Advisory Committee, which shall consider matters concerning oysters, clams, scallops, other molluscan shellfish, shrimp, and crabs.
- (4) The Habitat and Water Quality Committee, which shall consider matters concerning habitat and water quality that may affect coastal fisheries resources.

...

(e) ~~The Chair of the Commission shall appoint a regional advisory committee for each of the three coastal regions designated in G.S. 143B-289.54(b) and shall appoint a regional advisory committee for that part of the State that is not included in the three coastal regions. Northern Regional Advisory Committee, encompassing areas from the Virginia line south through Hyde and Pamlico Counties and any counties to the west, and a Southern Regional Advisory Committee, encompassing areas from Carteret County south to the South Carolina line and any counties to the west. In making appointments to regional advisory committees, the Chair of the Commission shall ensure that both commercial and recreational fishing interests are fairly represented.~~"

SECTION 16.(b) G.S. 113-200(e1) reads as rewritten:

"§ 113-200. Fishery Resource Grant Program.

...

(e1) Grants Committee. – The Grants Committee shall consist of eleven members as follows:

- (1) Three employees of the Sea Grant College Program, appointed by the Director of the Sea Grant College Program.
- (2) Two employees of the Division of Marine Fisheries, appointed by the Fisheries Director.
- (3) Two members of the Marine Fisheries Commission, appointed by the Chair of the Marine Fisheries Commission.
- (4) ~~One member~~Two members of the ~~Northeast-Northern~~ Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the ~~Northeast-Northern~~ Regional Advisory Committee.
- (5) ~~One member of the Central Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Central Regional Advisory Committee.~~

- (6) ~~One member~~ Two members of the ~~Southeast~~ Southern Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the ~~Southeast~~ Southern Regional Advisory Committee.
- (7) ~~One member of the Inland Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Inland Regional Advisory Committee.~~

...."

SECTION 16.(c) The terms of the members currently serving on the Crustacean, Shellfish, and the four regional advisory committees (Northeast, Southeast, Central, and Inland) shall expire on June 30, 2012. Effective July 1, 2012, the Chair of the Marine Fisheries Advisory Commission shall appoint no more than 11 members to the Northern Regional Advisory Committee and the Southern Regional Advisory Committee, established pursuant to subsection (e) of G.S. 143B-289.57, as amended by this section.

PART XVII. PROVIDE THAT A SUPERMAJORITY OF THE MARINE FISHERIES COMMISSION IS REQUIRED TO OVERRIDE A RECOMMENDATION OF THE DIVISION OF MARINE FISHERIES REGARDING OVERFISHING OR REBUILDING OF FISH STOCKS

SECTION 17. G.S. 143B-289.52 is amended by adding a new subsection to read:

"§ 143B-289.52. **Marine Fisheries Commission – powers and duties.**

...

(e1) A supermajority of the Commission shall be six members. A supermajority shall be necessary to override recommendations from the Division of Marine Fisheries regarding measures needed to end overfishing or to rebuild overfished stocks."

PART XVIII. PROVIDE CERTAIN PROTECTIONS TO GALAX AND VENUS FLYTRAP UNDER THE PLANT PROTECTION AND CONSERVATION ACT

SECTION 18. G.S. 106-202.19(a) reads as rewritten:

"(a) Unless the conduct is covered under some other provision of law providing greater punishment, it is ~~unlawful~~ unlawful to engage in any of the following conduct:

- (1) To uproot, dig, take or otherwise disturb or remove for any purpose from the lands of another, any plant on a protected plant list without a written permit from the owner which is dated and valid for no more than 180 days and which indicates the species or higher taxon of plants for which permission is granted; except that the incidental disturbance of protected plants during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or commercial ~~use~~ use.
- (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade, exchange or export or give away for any purpose including advertising or other promotional purpose any plant on a protected plant list, except as authorized according to the rules and regulations of the ~~Board~~ Board.
- (3) To violate any rule of the Board promulgated under this ~~Article~~ Article.
- (4) ~~To dig ginseng on another person's land, except for the purpose of replanting, between the first day of April and the first day of September;~~
- (5) To buy ginseng outside of a buying season as provided by the Board without obtaining the required documents from the person selling the ~~ginseng~~ ginseng.
- (6) To buy ginseng for the purpose of resale or trade without holding a currently valid permit as a ginseng ~~dealer~~ dealer.
- (6a) To uproot, dig, take, or otherwise disturb or remove for any purpose from another person's land ginseng, galax, or Venus flytrap without a written permit from the owner that is dated and valid for no more than 180 days. A person in lawful possession of the land who has a recorded lease which

- allows for the disturbance or removal of any vegetation on the land is not subject to this subdivision.
- (6b) To buy galax outside of a buying season as provided by the Board without obtaining the required documents from the person selling the galax.
 - (6c) To buy Venus flytrap outside of a buying season as provided by the Board without obtaining the required documents from the person selling the Venus flytrap.
 - (6d) To buy more than five pounds of galax for the purpose of resale or trade without a copy of the landowner's written permission and confirmation of the collection date.
 - (6e) To buy more than 50 Venus flytrap plants for the purpose of resale or trade unless fully compliant with applicable regulations.
 - (7) To fail to keep records as required under this Article, to refuse to make records available for inspection by the Board or its agent, or to use forms other than those provided for the current year or harvest season by the Department of Agriculture and Consumer ~~Services~~; Services.
 - (8) To provide false information on any record or form required under this ~~Article~~; Article.
 - (9) To make false statements or provide false information in connection with any investigation conducted under this ~~Article~~; Article.
 - (10) To possess any protected plant, or part thereof, which was obtained in violation of this Article or any rule adopted ~~hereunder~~; under this Article.
 - (11) To violate a stop sale order issued by the Board or its agent."

PART XIX. INCREASE THE CIVIL PENALTY FOR VIOLATIONS OF CERTAIN RULES OF THE WILDLIFE RESOURCES COMMISSION

SECTION 19. G.S. 113-135.1(a) reads as rewritten:

"(a) To prevent unsuspecting members of the public from being subject to harsh criminal penalties for offenses created by rules of the Wildlife Resources Commission, the penalty for an offense that is solely a violation of rules of the Wildlife Resources Commission is limited to a fine of ~~ten dollars (\$10.00)~~ twenty-five dollars (\$25.00) except as follows:

- (1) Offenses set out in subsection (b) of this section are punishable as set forth in G.S. 113-135 or other sections of the General Statutes.
- (2) A person who parks a vehicle in violation of a rule regulating the parking of vehicles at boating access or boating launch areas is responsible for an infraction and shall pay a fine of fifty dollars (\$50.00)."

PART XX. USE OF TVA SETTLEMENT FUNDS

SECTION 20. Funds received by the State pursuant to the provisions of the Consent Decree entered into by the State in *State of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in the United States District Court for the Eastern District of Tennessee and allocated to the Department of Agriculture and Consumer Services by the Committee Report to House Bill 950 shall be used exclusively to award grants for "Environmental Mitigation Projects" of the types specified in paragraph 128 of the Consent Decree in the following counties: Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, Yancey.

PART XXI. AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS

SECTION 21.(a) G.S. 130A-294 reads as rewritten:

"§ 130A-294. **Solid waste management program.**

...

(i) ~~The Department shall develop a comprehensive hazardous waste management plan for the State and shall revise the plan on or before 1 July of even-numbered years. The Department shall report to the Fiscal Research Division of the General Assembly, the Senate Appropriations Subcommittee on Natural and Economic Resources, the House Appropriations Subcommittee on Natural and Economic Resources, and the Environmental Review Commission on or before 1 October~~January 1 of each year on the implementation and cost of the ~~comprehensive hazardous waste management plan~~program. The report shall include an evaluation of how well the State and private parties are managing and cleaning up hazardous waste. The report shall also include recommendations to the Governor, State agencies, and the General Assembly on ways to: improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste which must be disposed of. The report shall include beginning and ending balances in the Hazardous Waste Management Account for the reporting period, total fees collected pursuant to G.S. 130A-294.1, anticipated revenue from all sources, total expenditures by activities and categories for the hazardous waste management program, any recommended adjustments in annual and tonnage fees which may be necessary to assure the continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste management program, and any other information requested by the General Assembly. In recommending adjustments in annual and tonnage fees, the Department may propose fees for hazardous waste generators, and for hazardous waste treatment facilities that treat waste generated on site, which are designed to encourage reductions in the volume or quantity and toxicity of hazardous waste. The report shall also include a description of activities undertaken to implement the resident inspectors program established under G.S. 130A-295.02. In addition, the report shall include an annual update on the mercury switch removal program that shall include, at a minimum, all of the following:

- (1) A detailed description of the mercury recovery performance ratio achieved by the mercury switch removal program.
- (2) A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.
- (3) In the event that a mercury recovery performance ratio of at least 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury switch removal program.
- (4) The number of mercury switches collected and a description of how the mercury switches were managed.
- (5) A statement that details the costs required to implement the mercury switch removal program, including a summary of receipts and disbursements from the Mercury Switch Removal Account."

SECTION 21.(b) G.S. 130A-294 reads as rewritten:

"§ 130A-294. Solid waste management program.

...

(i) The Department shall report to the Fiscal Research Division of the General Assembly, the Senate Appropriations Subcommittee on Natural and Economic Resources, the House Appropriations Subcommittee on Natural and Economic Resources, and the Environmental Review Commission on or before January 1 of each year on the implementation and cost of the hazardous waste management program. The report shall include an evaluation of how well the State and private parties are managing and cleaning up hazardous waste. The report shall also include recommendations to the Governor, State agencies, and the General Assembly on ways to: improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste which must be disposed of. The report shall include beginning and ending balances in the Hazardous Waste Management Account for the reporting period, total fees collected pursuant

to G.S. 130A-294.1, anticipated revenue from all sources, total expenditures by activities and categories for the hazardous waste management program, any recommended adjustments in annual and tonnage fees which may be necessary to assure the continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste management program, and any other information requested by the General Assembly. In recommending adjustments in annual and tonnage fees, the Department may propose fees for hazardous waste generators, and for hazardous waste treatment facilities that treat waste generated on site, which are designed to encourage reductions in the volume or quantity and toxicity of hazardous waste. The report shall also include a description of activities undertaken to implement the resident inspectors program established under G.S. 130A-295.02. In addition, the report shall include an annual update on the mercury switch removal program that shall include, at a minimum, all of the following:

- (1) ~~A detailed description and documentation of the capture rate achieved, of the mercury recovery performance ratio achieved by the mercury switch removal program.~~
- (2) ~~A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.~~
- (3) ~~In the event that a mercury recovery performance ratio of at least 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP capture rate of at least ninety percent (90%) is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury minimization plan and its implementation.~~ switch removal program.
- (4) ~~The number of mercury switches collected, the number of end-of-life vehicles containing mercury switches, the number of end-of-life vehicles processed for recycling, and a description of how the mercury switches were managed.~~
- (5) ~~A statement that details the costs required to implement the mercury minimization plan, switch removal program including a summary of receipts and disbursements from the Mercury Switch Removal Account.~~

...."

SECTION 21.(c) G.S. 130A-294.1(p) is repealed.

SECTION 21.(d) G.S. 130A-295.02(m) is repealed.

SECTION 21.(e) G.S. 130A-310.2(b) is repealed.

SECTION 21.(f) G.S. 130A-310.57 is repealed.

SECTION 22. G.S. 130A-310.10 reads as rewritten:

"§ 130A-310.10. Annual reports.

(a) The Secretary shall report on inactive hazardous sites to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division on or before ~~1 October~~ October 1 of each year. The report shall include at least the following:

- (1) The Inactive Hazardous Waste Sites Priority List.
- (2) A list of remedial action plans requiring State funding through the Inactive Hazardous Sites Cleanup Fund.
- (3) A comprehensive budget to implement these remedial action plans and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the cost of said plans.
- (4) A prioritized list of sites that are eligible for remedial action under CERCLA/SARA together with recommended remedial action plans and a comprehensive budget to implement such plans. The budget for implementing a remedial action plan under CERCLA/SARA shall include a statement as to any appropriation that may be necessary to pay the State's share of such plan.

- (5) A list of sites and remedial action plans undergoing voluntary cleanup with Departmental approval.
- (6) A list of sites and remedial action plans that may require State funding, a comprehensive budget if implementation of these possible remedial action plans is required, and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the possible costs of said plans.
- (7) A list of sites that pose an imminent hazard.
- (8) A comprehensive budget to develop and implement remedial action plans for sites that pose imminent hazards and that may require State funding, and the adequacy of the Inactive Hazardous Sites Cleanup Fund.
- (8a) The amounts and sources of funds collected by year received under G.S. 130A-310.76, the amounts and sources of those funds paid into the Inactive Hazardous Sites Cleanup Fund established pursuant to G.S. 130A-310.11, the number of acres of contamination for which funds have been received pursuant to G.S. 130A-310.76, and a detailed annual accounting of how the funds collected pursuant to G.S. 130A-310.76 have been utilized by the Department to advance the purposes of Part 8 of Article 9 of Chapter 130A of the General Statutes.
- (9) Any other information requested by the General Assembly or the Environmental Review Commission.

(a1) On or before October 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.

(b) Repealed by Session Laws 2001-452, s. 2.3, effective October 28, 2001."

SECTION 23. G.S. 143-215.94M reads as rewritten:

"§ 143-215.94M. **Reports.**

(a) The Secretary shall present an annual report to the Environmental Review Commission—Commission, the Fiscal Research Division, the Senate Appropriations Subcommittee on Natural and Economic Resources, and the House Appropriations Subcommittee on Natural and Economic Resources which shall include at least the following:

- (1) A list of all discharges or releases of petroleum from underground storage ~~tanks;~~tanks.
- (2) A list of all cleanups requiring State funding through the Noncommercial Fund and a comprehensive budget to complete such ~~cleanups;~~cleanups.
- (3) A list of all cleanups undertaken by tank owners or operators and the status of these ~~cleanups;~~cleanups.
- (4) A statement of receipts and disbursements for both the Commercial Fund and the Noncommercial ~~Fund;~~Fund.
- (5) A statement of all claims against both the Commercial Fund and the Noncommercial Fund, including claims paid, claims denied, pending claims, anticipated claims, and any other ~~obligations;~~obligations.
- (6) The adequacy of both the Commercial Fund and the Noncommercial Fund to carry out the purposes of this Part together with any recommendations as to measures that may be necessary to assure the continued solvency of the Commercial Fund and the Noncommercial ~~Fund;~~ and Fund.
- (7) ~~A statement of the condition of the Loan Fund and a summary of all activity under the Loan Fund.~~

(b) The report required by this section shall be made by the Secretary on or before ~~1 September~~November 1 of each year."

SECTION 24. G.S. 113A-35.1(b) is repealed.

SECTION 25. G.S. 136-28.8(g) reads as rewritten:

"(g) On or before October 1 of each year, the Department shall report to the Division of Environmental Assistance and Outreach of the Department of Environment and Natural Resources as to the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. On or before ~~December 1~~ January 15 of each year, the Division of Environmental Assistance and Outreach shall prepare a summary of this report and submit the summary to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee. The summary of this report shall also be included in the report required by G.S. 130A-309.06(c)."

SECTION 26. G.S. 159I-29(a) reads as rewritten:

"(a) ~~The~~ If the General Assembly appropriates funds for loans authorized by this Chapter in any fiscal year, the Office of State Budget and Management and the Division shall prepare and file on or before July 31 of ~~each~~ the following fiscal year with the Joint Legislative Commission on Governmental Operations a consolidated report for the preceding fiscal year concerning the allocation of loans authorized by this Chapter. No report shall be filed for fiscal years in which no funds are appropriated or otherwise available for loans authorized by this Chapter."

SECTION 27. G.S. 143B-279.5 reads as rewritten:**"§ 143B-279.5. Biennial State of the Environment Report.**

(a) The Secretary of Environment and Natural Resources shall report on the state of the environment to the General ~~Assembly~~ Assembly, the Fiscal Research Division of the General Assembly, and the Environmental Review Commission no later than 15 February of each odd-numbered year. The report shall include:

- (1) An identification and analysis of current environmental protection issues and problems within or affecting the State and its people;
- (2) Trends in the quality and use of North Carolina's air and water resources;
- (3) An inventory of areas of the State where air or water pollution is in evidence or may occur during the upcoming biennium;
- (4) Current efforts and resources allocated by the Department to correct identified pollution problems and an estimate, if necessary, of additional resources needed to study, identify, and implement solutions to solve potential problems;
- (5) Departmental goals and strategies to protect the natural resources of the State;
- (6) Any information requested by the General Assembly or the Environmental Review Commission;
- (7) Suggested legislation, if necessary; and
- (8) Any other information on the state of the environment the Secretary considers appropriate.

(b) Other State agencies involved in protecting the State's natural resources and environment shall cooperate with the Department of Environment and Natural Resources in preparing this report."

PART XXII. TECHNICAL AND CONFORMING CHANGES**SECTION 28.(a)** G.S. 77-92(a) reads as rewritten:

"(a) The Roanoke River Basin Bi-State Commission shall consist of 18 members with each state appointing nine members. The North Carolina delegation to the Commission shall consist of the six members of the General Assembly of North Carolina appointed to the North Carolina Roanoke River Basin Advisory Committee and three nonlegislative members ~~of the North Carolina Roanoke River Basin Advisory Committee, established pursuant to G.S. 77-103,~~ who represent different geographical areas of the North Carolina portion of the Basin and who reside within the Basin's watershed, to be appointed by the Governor of North

Carolina. The Virginia delegation to the Commission shall be appointed as determined by the Commonwealth of Virginia."

SECTION 28.(b) G.S. 77-93(b)(2) reads as rewritten:

"(2) To establish standing and ad hoc advisory committees pursuant to G.S. 77-94 ~~in addition to the North Carolina Roanoke River Basin Advisory Committee established pursuant to Part 2 of this Article~~ and the Virginia Roanoke River Basin Advisory Committee established pursuant to Chapter 5.4 of Title 62.1 of the Code of Virginia, which shall be constituted in a manner to ensure a balance between recognized interests. The Commission shall determine the purpose of each advisory committee."

PART XXIII. EFFECTIVE DATE

SECTION 29. Section 21(b) of this act becomes effective December 31, 2017. Sections 16(a) and 16(b) of this act become effective July 1, 2012. Sections 18 and 19 of this act become effective October 1, 2012, and apply to violations and 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.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law upon approval of the Governor at 11:42 a.m. on the 1st day of August, 2012.

Session Law 2012-201

H.B. 953

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO ENVIRONMENT AND NATURAL RESOURCES, DELAY THE IMPLEMENTATION DEADLINE FOR LOCAL STORMWATER MANAGEMENT PROGRAMS UNDER THE JORDAN LAKE NEW DEVELOPMENT RULE, AND TO MAKE CHANGES TO THE CLEAN ENERGY AND ECONOMIC SECURITY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-182.1(e) reads as rewritten:

"(e) The Secretary of Environment and Natural Resources shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Governmental Operations on progress in developing and implementing the Fishery Management Plans on or before 1 September of each year. The Secretary of Environment and Natural Resources shall report to the ~~Joint Legislative Commission on Seafood and Aquaculture~~ Joint Legislative Commission on Governmental Operations within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Governmental Operations shall review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Commission on Governmental Operations may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary."

SECTION 2.(a) G.S. 113A-115.1 is amended by adding a new subsection to read:

"§ 113A-115.1. **Limitations on erosion control structures.**

...

(i) No later than September 1 of each year, the Coastal Resources Commission shall report to the Environmental Review Commission on the implementation of this section. The report shall provide a detailed description of each proposed and permitted terminal groin and its

accompanying beach fill project, including the information required to be submitted pursuant to subsection (e) of this section. For each permitted terminal groin and its accompanying beach fill project, the report shall also provide all of the following:

- (1) The findings of the Commission required pursuant to subsection (f) of this section.
- (2) The status of construction and maintenance of the terminal groin and its accompanying beach fill project, including the status of the implementation of the plan for construction and maintenance and the inlet management plan.
- (3) A description and assessment of the benefits of the terminal groin and its accompanying beach fill project, if any.
- (4) A description and assessment of the adverse impacts of the terminal groin and its accompanying beach fill project, if any, including a description and assessment of any mitigation measures implemented to address adverse impacts."

SECTION 2.(b) Section 5 of S.L. 2011-387 is repealed.

SECTION 3. G.S. 130A-309.10(k) reads as rewritten:

"(k) A county or city may petition the Department for a waiver from the prohibition on disposal of a material described in subdivisions (9), (10), ~~(11)~~ and ~~(12)~~(11), (12), and (13) of subsection (f) of this section and subsection (f3) of this section in a landfill based on a showing that prohibiting the disposal of the material would constitute an economic hardship."

SECTION 4. The title of Part 2 of Article 3B of Chapter 143 of the General Statutes reads as rewritten:

"Part 2. ~~Guaranteed Energy Savings Contracts for~~Energy Saving Measures for Governmental Units."

SECTION 5.(a) G.S. 143-214.11 is amended by adding two new subsections to read:

"§ **143-214.11. Ecosystem Enhancement Program: compensatory mitigation.**

...

(i) The Ecosystem Enhancement Program shall exercise its authority to provide for compensatory mitigation under the authority granted by this section to use mitigation procurement programs in the following order of preference:

- (1) Full delivery/bank credit purchase program. – The Ecosystem Enhancement Program shall first seek to meet compensatory mitigation procurement requirements through the Program's full delivery program or by the purchase of credits from a private compensatory mitigation bank.
- (2) Existing local compensatory mitigation bank credit purchase program. – Any compensatory mitigation procurement requirements that are not fulfillable under subdivision (1) of this subsection shall be procured from an existing local compensatory mitigation bank, provided that the credit purchase is made to mitigate the impacts of a project located within the mitigation bank service area and hydrologic area of the existing local compensatory mitigation bank.
- (3) Design/build program. – Any compensatory mitigation procurement requirements that are not fulfillable under subdivision (1) or (2) of this subsection shall be procured under a program in which Ecosystem Enhancement Program contracts with one private entity to lead or implement the design, construction, and postconstruction monitoring of compensatory mitigation at sites obtained by the Ecosystem Enhancement Program. Such a program shall be considered the procurement of compensatory mitigation credits.
- (4) Design-bid-build program. – Any compensatory mitigation procurement requirements that are not fulfillable under either subdivision (1) or (2) of this subsection may be procured under the Ecosystem Enhancement Program's

design-bid-build program. The Ecosystem Enhancement Program may utilize this program only when procurement under subdivision (1) or (2) of this subsection is not feasible. Any mitigation site design work currently being performed through contracts awarded under the design-bid-build program shall be allowed to continue as scheduled. Contracts for construction of projects with a design already approved by the Ecosystem Enhancement Program shall be awarded by the Ecosystem Enhancement Program by issuing a Request for Proposal (RFP). Only contractors who have prequalified under procedures established by the Ecosystem Enhancement Program shall be eligible to bid on Ecosystem Enhancement Program construction projects. Construction contracts issued under this subdivision shall be exempt from the requirements of Article 8B of Chapter 143 of the General Statutes.

(j) The regulatory requirements for the establishment, operation, and monitoring of a compensatory mitigation bank or full delivery project shall vest at the time of the execution of the mitigation banking instrument or the award of a full delivery contract."

SECTION 5.(b) Sections 1.2 and 1.3 of S.L. 2011-343 are repealed.

SECTION 6. G.S. 143B-279.8(f) reads as rewritten:

"(f) The Secretary of Environment and Natural Resources shall report to the Environmental Review Commission and the ~~Joint Legislative Commission on Seafood and Aquaculture~~ ~~[Joint Legislative Commission on Governmental Operations]~~ Joint Legislative Commission on Governmental Operations within 30 days of the completion or substantial revision of each draft Coastal Habitat Protection Plan. The Environmental Review Commission and the Joint Legislative Commission on Governmental Operations shall concurrently review each draft Coastal Habitat Protection Plan within 30 days of the date the draft Plan is submitted by the Secretary. The Environmental Review Commission and the Joint Legislative Commission on Governmental Operations may submit comments and recommendations on the draft Plan to the Secretary within 30 days of the date the draft Plan is submitted by the Secretary."

SECTION 7. G.S. 143B-344.37(b)(1) reads as rewritten:

"§ **143B-344.37. (Expires June 30, 2016) North Carolina Sustainable Communities Grant Fund.**

...

(b) Purposes. – Funds in the North Carolina Sustainable Communities Grant Fund shall be used, as available, to provide funding to regional bodies, cities, or counties to improve regional planning efforts that integrate housing and transportation decisions, to increase the capacity to improve land use and zoning and to provide up to fifty percent (50%) of any required local matching funds for recipients of Federal Sustainable Communities Planning Grants and any other federal grants related to sustainable development and requiring local matching funds. In order to receive funds under this section, regions must meet all of the following requirements:

- (1) The regional body, city, or county is a part of a regional sustainable development partnership that includes any of the metro regions as defined in ~~G.S. 143B-344.38(b)~~ G.S. 143B-344.38(c). Partnerships may also include any Metropolitan Planning Organizations, Regional Planning Organizations, regional transit agencies, and representation from involved State agencies.

...."

SECTION 8. G.S. 143B-344.38 reads as rewritten:

"§ **143B-344.38. (Expires June 30, 2016) North Carolina Sustainable Communities Task Force – reports.**

(a) Beginning in 2011, the Task Force shall report to the Governor, the chairs of the ~~House Commerce, Small Business, and Entrepreneurship Committee~~ House Committee on Commerce and Job Development, ~~and~~ the Senate Commerce Committee, and the Joint

Legislative Commission on Governmental Operations no later than October 1 each year. The report shall include the following elements:

...
 (b) Prior to awarding any funding under G.S. 143B-344.37 and no later than February 1, 2011, the Task Force shall report to the ~~House Commerce, Small Business, and Entrepreneurship Committee~~ House Committee on Commerce and Job Development and the Senate Commerce Committee regarding the sustainable practices scoring system developed in accordance with G.S. 143B-344.35(7).

...."

SECTION 9. G.S. 143B-432(a) reads as rewritten:

"(a) The Division of Economic Development of the Department of Natural and Economic Resources, the Science and Technology Committee of the Department of Natural and Economic Resources, and the Science and Technology Research Center of the Department of Natural and Economic Resources ~~Resources, and the Western North Carolina Public Lands Council of the Department of Natural and Economic Resources~~ are each hereby transferred to the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6."

SECTION 10. G.S. 18B-1105(b) reads as rewritten:

"§ **18B-1105. Authorization of distillery permit.**

...
 (b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), 201.64 through 201.65 or Part 201.131 through 201.138 shall obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State permit."

SECTION 11.(a) Definition. – As used in this act, "New Development Rule 15A NCAC 02B .0265" means 15A NCAC 02B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008.

SECTION 11.(b) New Development Rule 15A NCAC 02B .0265. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 11(d) of this act, the Commission and the Department shall implement New Development Rule 15A NCAC 02B .0265, as provided in Section 11(c) of this act.

SECTION 11.(c) Implementation. – Notwithstanding sub-subdivision (d) of subdivision (4) of New Development Rule 15A NCAC 02B .0265, by August 10, 2014, within three months after the Commission's approval of a local program, or upon the Division's first renewal of a local government's NPDES stormwater permit, whichever occurs later, the affected local government shall complete adoption of and implement its local stormwater management program.

SECTION 11.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace New Development Rule 15A NCAC 02B .0265. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 11(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 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 11.(e) Sunset. – Section 11(c) of this act expires on the date that rules adopted pursuant to Section 11(d) of this act become effective.

SECTION 12.(a) If Senate Bill 820, 2011 Regular Session, becomes law, then Section 2(j) of that act reads as rewritten:

"**SECTION 2.(j)** The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources, the Department of Transportation, the North Carolina League of Municipalities, and the North Carolina Association of County

Commissioners, shall identify appropriate levels of funding and potential sources for that funding, including permit fees, bonds, taxes, and impact fees, necessary to (i) support local governments impacted by the industry and associated activities; (ii) address expected infrastructure impacts, including, but not limited to, repair of roads damaged by truck traffic and heavy equipment; (iii) cover any costs to the State for administering an oil and gas regulatory program, including remediation and reclamation of drilling sites when necessary due to abandonment or insolvency of an oil or gas operator or other responsible party; and (iv) any other issues that may need to be addressed in the Commission's determination. Any recommendation concerning local impact fees shall be formulated to require that all such fees be used exclusively to address infrastructure impacts from the drilling operation for which a fee is imposed. The Commission shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on or before ~~January~~ October 1, 2013."

SECTION 12.(b) If Senate Bill 820, 2011 Regular Session, becomes law, then Section 2(k) of that act reads as rewritten:

"**SECTION 2.(k)** The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources, the North Carolina League of Municipalities, and the North Carolina Association of County Commissioners, shall examine the issue of local government regulation of oil and gas exploration and development activities, and the use of horizontal drilling and hydraulic fracturing for that purpose. The Commission shall formulate recommendations that maintain a uniform system for the management of such activities, which allow for reasonable local regulations, including required setbacks, infrastructure placement, and light and noise restrictions, that do not prohibit or have the effect of prohibiting oil and gas exploration and development activities, and the use of horizontal drilling and hydraulic fracturing for that purpose, or otherwise conflict with State law. The Commission shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on or before ~~January~~ October 1, 2013."

SECTION 12.(c) If Senate Bill 820, 2011 Regular Session, becomes law, then Section 2(l) of that act reads as rewritten:

"**SECTION 2.(l)** The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources and the Consumer Protection Division of the North Carolina Department of Justice, shall study the State's current law on the issue of integration or compulsory pooling and other states' laws on the matter. The Department shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the Environmental Review Commission on or before ~~January~~ October 1, 2013."

SECTION 12.(d) If Senate Bill 820, 2011 Regular Session, becomes law, then G.S. 113-423(j), as enacted by Section 4(d) of that act, reads as rewritten:

"(j) ~~Three-Day~~Seven-Day Right of Rescission. – Any lease of oil or gas rights or any other conveyance of any kind separating rights to oil or gas from the freehold estate of surface property shall be subject to a ~~three-day~~seven-day right of rescission in which the lessor or lessee may cancel the lease. A bold and conspicuous notice of this right of rescission shall be included in all such leases. In order to cancel the lease, the lessor or lessee shall notify the other party in writing within ~~three~~ seven business days of execution of the lease, and the lessor shall return any sums paid by the lessee to the lessor under the terms of the lease."

SECTION 13. Sections 12(a) through 12(c) of this act become effective August 1, 2012. Section 12(d) of this act is effective when it becomes law and applies to leases or contracts entered into 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, 2012.

Became law upon approval of the Governor at 11:44 a.m. on the 1st day of August, 2012.

Session Law 2012-202

H.B. 819

AN ACT TO STUDY AND MODIFY CERTAIN COASTAL MANAGEMENT POLICIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-103(2) reads as rewritten:

"(2) "Coastal area" means the counties that (in whole or in part) are adjacent to, adjoining, intersected by or bounded by the Atlantic Ocean (extending offshore to the limits of State jurisdiction, as may be identified by rule of the Commission for purposes of this Article, but in no event less than three geographical miles offshore) or any coastal sound. The Governor, in accordance with the standards set forth in this subdivision and in subdivision (3) of this section, shall designate the counties that constitute the "coastal area," as defined by this section, and his designation shall be final and conclusive. On or before May 1, 1974, the Governor shall file copies of a list of said coastal-area counties with the chairmen of the boards of commissioners of each county in the coastal area, with the mayors of each incorporated city within the coastal area (as so defined) having a population of 2,000 or more and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean, and with the Secretary of State. By way of illustration, the counties designated as coastal-area counties under this subdivision as of July 1, 2012, are Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington. The said coastal-area counties and cities shall thereafter transmit nominations to the Governor of members of the Coastal Resources Commission as provided in G.S. 113A-104(d)."

SECTION 2.(a) Article 7 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"§ 113A-107.1. Sea-level policy.

(a) The General Assembly does not intend to mandate the development of sea-level policy or the definition of rates of sea-level change for regulatory purposes.

(b) No rule, policy, or planning guideline that defines a rate of sea-level change for regulatory purposes shall be adopted except as provided by this section.

(c) Nothing in this section shall be construed to prohibit a county, municipality, or other local government entity from defining rates of sea-level change for regulatory purposes.

(d) All policies, rules, regulations, or any other product of the Commission or the Division related to rates of sea-level change shall be subject to the requirements of Chapter 150B of the General Statutes.

(e) The Commission shall be the only State agency authorized to define rates of sea-level change for regulatory purposes. If the Commission defines rates of sea-level change for regulatory purposes, it shall do so in conjunction with the Division of Coastal Management of the Department. The Commission and Division may collaborate with other State agencies,

boards, and commissions; other public entities; and other institutions when defining rates of sea-level change."

SECTION 2.(b) The Coastal Resources Commission and the Division of Coastal Management of the Department of Environment and Natural Resources shall not define rates of sea-level change for regulatory purposes prior to July 1, 2016.

SECTION 2.(c) The Coastal Resources Commission shall direct its Science Panel to deliver its five-year updated assessment to its March 2010 report entitled "North Carolina Sea Level Rise Assessment Report" to the Commission no later than March 31, 2015. The Commission shall direct the Science Panel to include in its five-year updated assessment a comprehensive review and summary of peer-reviewed scientific literature that address the full range of global, regional, and North Carolina-specific sea-level change data and hypotheses, including sea-level fall, no movement in sea level, deceleration of sea-level rise, and acceleration of sea-level rise. When summarizing research dealing with sea level, the Commission and the Science Panel shall define the assumptions and limitations of predictive modeling used to predict future sea-level scenarios. The Commission shall make this report available to the general public and allow for submittal of public comments including a public hearing at the first regularly scheduled meeting after March 31, 2015. Prior to and upon receipt of this report, the Commission shall study the economic and environmental costs and benefits to the North Carolina coastal region of developing, or not developing, sea-level regulations and policies. The Commission shall also compare the determination of sea level based on historical calculations versus predictive models. The Commission shall also address the consideration of oceanfront and estuarine shorelines for dealing with sea-level assessment and not use one single sea-level rate for the entire coast. For oceanfront shorelines, the Commission shall use no fewer than the four regions defined in the April 2011 report entitled "North Carolina Beach and Inlet Management Plan" published by the Department of Environment and Natural Resources. In regions that may lack statistically significant data, rates from adjacent regions may be considered and modified using generally accepted scientific and statistical techniques to account for relevant geologic and hydrologic processes. The Commission shall present a draft of this report, which shall also include the Commission's Science Panel five-year assessment update, to the general public and receive comments from interested parties no later than December 31, 2015, and present these reports, including public comments and any policies the Commission has adopted or may be considering that address sea-level policies, to the General Assembly Environmental Review Commission no later than March 1, 2016.

SECTION 3.(a) Notwithstanding Article 7 of Chapter 113A of the General Statutes and rules adopted pursuant to that Article, the Coastal Resources Commission shall not deny a development permit for the replacement of a single-family or duplex residential dwelling with a total floor area greater than 5,000 square feet based on failure to meet the ocean hazard setback required under 15A NCAC 07H .0306(a)(2) if the structure meets all of the following criteria:

- (1) The structure was originally constructed prior to August 11, 2009.
- (2) The structure as replaced does not exceed the original footprint or square footage.
- (3) The structure as replaced meets the minimum setback required under 15A NCAC 07H .0306(a)(2)(A).
- (4) It is impossible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under 15A NCAC 07H .0306(a)(2).
- (5) The structure is rebuilt as far landward on the lot as feasible.

SECTION 3.(b) No later than October 1, 2012, the Coastal Resources Commission shall adopt temporary rules consistent with the provisions of subsection (a) of this section. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (a) of this section. The temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 4. The Coastal Resources Commission shall study the feasibility of creating a new Area of Environmental Concern for the lands adjacent to the mouth of the Cape Fear River. In studying this region, which shall at least encompass the Town of Caswell Beach and the Village of Bald Head Island, the Commission shall consider the unique coastal morphologies and hydrographic conditions not found elsewhere along the coast. As part of this study, the Commission shall collaborate with the Town of Caswell Beach, the Village of Bald Head Island, and landowners within and immediately adjacent to these two municipalities to identify regulatory concerns and develop strategies for creating a more efficient regulatory framework. If the Commission deems action is necessary to preserve, protect, and balance the economic and natural resources of this region, the Commission shall work to eliminate overlapping Areas of Environmental Concern in these areas and instead incorporate appropriate development standards into one single Area of Environmental Concern unique to this location. The Commission shall report its findings, including any proposed actions the Commission deems appropriate, to the Secretary of Environment and Natural Resources, the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Environmental Review Commission on or before December 31, 2013.

SECTION 5. The Coastal Resources Commission shall study the feasibility of eliminating the Inlet Hazard Area of Environmental Concern and incorporating appropriate development standards adjacent to the State's developed inlets into the Ocean Erodible Area of Environmental Concern. If the Commission deems action is necessary to preserve, protect, and balance the economic and natural resources adjacent to inlets, the Commission shall consider the elimination of the inlet hazard boxes; the development of shoreline management strategies that take into account short- and long-term inlet shoreline oscillation and variation, including erosion rates and setback factors; the development of standards that account for the lateral movement of inlets and their impact on adjacent development and habitat; and consideration of how new and existing development standards, as well as existing and proposed development, are impacted by historical and ongoing beach and inlet management techniques, including dredging, beach fill, and engineered structures such as groins and jetties. As part of this study, the Commission shall collaborate with local governments and landowners affected by the Commission's Inlet Hazard Areas to identify regulatory concerns and develop strategies for creating a more efficient regulatory framework. The Commission shall report its findings, including any proposed actions the Commission deems appropriate, to the Secretary of Environment and Natural Resources, the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Environmental Review Commission on or before January 31, 2015.

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

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

Became law on the date it was ratified.

Session Law 2012-203

H.B. 1009

AN ACT TO AMEND THE NORTH CAROLINA METROPOLITAN SEWERAGE DISTRICTS ACT TO MODIFY REPRESENTATION ON THE DISTRICT BOARD UPON EXPANSION, AND TO ALLOW METROPOLITAN SEWERAGE DISTRICTS TO ALSO EXERCISE THE SAME POWERS AS METROPOLITAN WATER DISTRICTS, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S METROPOLITAN SEWERAGE/WATER SYSTEM COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 162A-67(a)(4) reads as rewritten:

"(4) The governing body of each political subdivision, other than counties, lying in whole or in part within the district, shall appoint one member of the district board. ~~No~~ Except as provided in G.S. 162A-68, no appointment of a

member of the district board shall be made by or in behalf of any political subdivision of which the board or boards of commissioners shall be the governing body. If any city or town within the district shall have a population, as determined from the latest decennial census, ~~greater than that of all other political subdivisions (other than counties) and unincorporated areas within the district,~~ more than one-half the combined population of all other political subdivisions (other than counties) and unincorporated areas within the district, the governing body of any such city or town shall appoint three members. ~~All members and their successors appointed by the governing bodies of political subdivisions other than counties shall serve for a term of three years and shall be qualified voters residing in the district and the political subdivision from which they are appointed."~~

SECTION 2. Article 5 of Chapter 162A of the General Statutes is amended by adding a new section to read:

"§ 162A-67.5. Determination of population and representation.

(a) For purposes of determining district board representation of political subdivisions for any appointment under this Article, population shall be determined by reference to the most recent decennial census.

(b) For purposes of determining population for district board representation, only that portion of the population residing within the district boundary itself shall be included for each political subdivision and each unincorporated area having district board representation at the time such determination is made.

(c) In determining district board representation, no appointment shall be made by or in behalf of a political subdivision which does not own or operate a public system for the collection of wastewater at the time of such appointment."

SECTION 3. G.S. 162A-68(i) reads as rewritten:

"(i) Immediately following the inclusion of any additional political subdivision within an existing district, members representing such additional political subdivision shall be appointed to the district board in the manner provided in ~~G.S. 162A-67~~ this section.

(1) Any additional unincorporated area that is included within an existing district shall be represented by the members representing the county in which the unincorporated area lies ~~except that~~ as follows:

(1)a. If inclusion of the additional unincorporated area extends the district into more than one county, members representing the unincorporated area in the new county shall be appointed ~~in accordance with G.S. 162A-67(a)(2)~~ immediately following the inclusion of the additional area. Upon the inclusion of the additional area, the board members appointed in accordance with G.S. 162A-67(a)(1) or G.S. 162A-67(a)(1a) shall continue to serve on the district board. The board of commissioners of the county in which the largest portion of the district lies shall appoint qualified voters residing in the county and district as their successors such that the county in which the largest portion of the district lies shall always have three members on the district board. The board of commissioners of the county in which the lesser portion of the district lies shall appoint to the district board two qualified voters residing in the county and district to serve a term of three years and shall appoint qualified voters residing in the county and district as their successors such that the county in which the lesser portion of the district lies shall always have two members on the district board. For purposes of this subdivision, the county in which the largest portion and lesser portion of the district lies shall be determined with reference to the land area of the district lying within

the county as a percentage of land area of the entire district at the time such appointment or reappointment is made.

(2)b. If the inclusion of the additional unincorporated area has the effect of changing the county in which the largest portion of the district lies, new members representing the county comprising the larger portion of the district shall be appointed in accordance with G.S. 162A-67(a)(2) immediately following the inclusion, and no reappointment shall be made by the county in which the lesser portion of the district lies upon expiration of the first term of a member representing that county following the inclusion.

(2) Following the inclusion of any additional political subdivision within an existing district, the political subdivisions added shall appoint members to the district board in accordance with G.S. 162A-67(a)(4) only if the governing body of the political subdivision owns or operates a public system for the collection of wastewater at the time of such appointment.

The terms of office of the members first appointed to represent such additional subdivision or area may be varied for a period not to exceed six months from the terms provided for in G.S. 162A-67, so that the appointment of successors to such members may more nearly coincide with the appointment of successors to members of the existing board; and all successor members shall be appointed for the terms provided for in G.S. 162A-67."

SECTION 4. G.S. 162A-69 is amended by adding a new subdivision to read:

"§ 162A-69. Powers generally; fiscal year.

Each district shall be deemed to be a public body and body politic and corporate exercising public and essential governmental functions to provide for the preservation and promotion of the public health and welfare, and each district is hereby authorized and empowered:

...

(13c) To exercise any power of a Metropolitan Water District under Article 4 of this Chapter not set forth in this section.

...."

SECTION 5. This act becomes effective July 1, 2012, and applies to appointments made on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Became law on the date it was ratified.

**VETOES
OF
GOVERNOR BEVERLY E. PERDUE**

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

SENATE BILL 416	AN ACT TO AMEND DEATH PENALTY PROCEDURES.
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HOUSE BILL 950	AN ACT TO MODIFY THE CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS ACT OF 2011 AND FOR OTHER PURPOSES.
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SENATE BILL 820	CLEAN ENERGY AND ECONOMIC SECURITY ACT.
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STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

BEVERLY EAVES PERDUE
GOVERNOR

June 29, 2012

GOVERNOR'S OBJECTIONS AND VETO MESSAGE

Senate Bill 416, "An Act To Amend Death Penalty Procedures"

As long as I am Governor, I will fight to make sure the death penalty stays on the books in North Carolina. But it has to be carried out fairly – free of prejudice.

Three years ago, North Carolina took steps to achieve this result by passing the Racial Justice Act. In response to the enactment of this historic law, our State has rightfully received national acclaim for taking a positive and long overdue step to make sure racism does not infect the way the death penalty is administered.

Last year, Republicans in the General Assembly tried -- and failed -- to take North Carolina backwards by passing a bill that would have undone the Racial Justice Act. This year's Senate Bill 416 is not a "compromise bill"; it guts the Racial Justice Act and renders it meaningless.

Several months ago, a North Carolina superior court judge ruling on a claim brought under the Racial Justice Act determined that racial discrimination occurred in death penalty trials across the State over a multi-year period. The judge's findings should trouble everyone who is committed to a justice system based on fairness, integrity, and equal protection under the law. Faced with these findings, the Republican majority in the General Assembly could have tried to strengthen our efforts to fix the flaws in our system. Instead, they chose to turn a blind eye to the problem and eviscerate the Racial Justice Act. Willfully ignoring the pernicious effects of discrimination will not make those problems go away.

It is simply unacceptable for racial prejudice to play a role in the imposition of the death penalty in North Carolina.

Therefore, I veto this bill.

Beverly Eaves Perdue

This bill having been vetoed is returned to the Clerk of the North Carolina Senate on this 29th day of June 2012, at ~~2:17pm~~ for reconsideration by that body.

RECEIVED FROM GOVERNOR*
12:22 p.m. - 6.29.12
Sarah Clapp



LOCATION: 116 WEST JONES STREET • RALEIGH, NC • TELEPHONE: (919) 733-5811
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OFFICE OF THE GOVERNOR
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BEVERLY EAVES PERDUE
GOVERNOR

June 29, 2012

GOVERNOR'S OBJECTIONS AND VETO MESSAGE

House Bill 950, "An Act to Modify the Current Operations and Capital Improvements Appropriations Act of 2011 and for Other Purposes."

North Carolina needs a budget that moves our state forward and that is focused on investing in our future. Budgets are about values, priorities, and choices. Last week, the General Assembly delivered to me a budget that left too many of North Carolina's needs unmet—too many priorities unaddressed.

First and foremost, their budget does not invest enough resources in education. Investing in schools is among the most important things a state must do in order to prepare our children for the future, and to send a powerful economic message that we have a well-educated, well-trained workforce and this is a state where 21st century companies should invest.

Last year, the Republican-controlled General Assembly forced deep and unnecessary cuts to education. After those cuts, schools across North Carolina cut 915 teachers, more than 2,000 teacher assistants, and nearly 5,000 total education positions.

It should have been clear to everyone that we needed to do better this year -- that we needed to reverse those harmful cuts. Not only are we failing to do better, but under this budget, things would actually get worse. If the budget they passed becomes law, schools across North Carolina would get about \$190 million less next year than they got this year.

In addition, their budget fails to provide additional funding to increase access for Smart Start or NC Pre-K, our nationally recognized early childhood education programs that help assure that young children come to school prepared to succeed.

This isn't good enough. It fails to do an adequate job in what is now -- and what has always been -- North Carolina's top priority: preparing our children so they can have more opportunity than we had.

While schools would get \$190 million less next year than they got this year, the General Assembly did include small raises for teachers and state employees.

I know that teachers and state employees are long overdue for a pay increase, and I support a pay increase. In fact, I included raises in my budget proposal that were 50% larger than the ones in this budget.

But under this budget, while some teachers and other employees will get raises, there is no question that some educators and other state employees will lose their jobs because of the choices the General Assembly made in this budget. Raises for some and layoffs for others is not the right direction for North Carolina.



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The flaws in this budget extend beyond the legislature's failure to invest sufficient resources in schools:

- They failed to invest in jobs proposals, like (i) the initiative to provide a credit to encourage small businesses to hire post-9/11 veterans and unemployed North Carolinians, and (ii) plans to boost our surging film and biotech industries.
- They failed to invest in proposals to support our servicemen and women and military families, like the plan to provide tuition assistance to military veterans and their dependents.
- They failed to invest in public safety, like proposals to fund more probation officers to oversee known criminals.
- And they failed to invest in other priorities, like mental health, and efforts to effectively continue the state's successful efforts to curb teen smoking.

Finally, they ignored the bipartisan attempt to compensate verified living victims of the state's forced sterilization program that happened just a generation ago.

At the same time that they left all of these needs unmet, their budget also gives tax breaks to millionaires. I am not against giving tax relief to small businesses. On the contrary, I'm strongly for it. Last year, I recommended cutting the corporate income tax, which would have given tax relief to businesses across North Carolina.

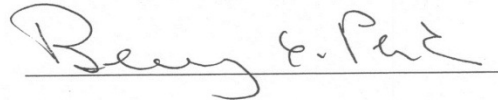
But budgets are about North Carolina's priorities and our view of the future. And I simply don't believe that the General Assembly should give tax breaks to lawyers, lobbyists, and other millionaires while leaving so many critical needs unmet.

Despite all of the flaws in the budget, and all of the priorities it fails to address, I understand that we have a divided government. I was willing and determined to reach a bipartisan compromise. After I reviewed the budget I reached out to Speaker Tillis and President Pro Tem Berger and tried repeatedly to forge a consensus.

I told them clearly that I would allow the budget to become law if they would just improve the investment in our children's future and in other critical priorities. I didn't ask them to meet me halfway, I didn't ask them to "split the difference." I just asked them to do a little better and invest a little more in our children's future and in some other key priorities. Unfortunately, they rejected my efforts and essentially told me to "take it or leave it."

With all of the budget's unmet needs, with all of its misplaced priorities, and with the Republican legislative leaders' unwillingness to make even the slightest move towards compromise, I feel as though I have no choice but to veto this budget.

Therefore, I veto this bill.



Beverly Eaves Perdue

This bill having been vetoed is returned to the Clerk of the North Carolina House of Representatives on this 29th day of June 2012, at ~~2:17pm~~ for reconsideration by that body.

RECEIVED FROM GOVERNOR



SENATE

PASSED NOTWITHSTANDING
EXECUTIVE OBJECTION
JUL 02 2012
AYES 29 NOES 13

3/5ths
majority



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

Sent to the House
BY SPECIAL MESSENGER

Sarah Clapp

BEVERLY EAVES PERDUE
GOVERNOR

July 1, 2012

GOVERNOR'S OBJECTIONS AND VETO MESSAGE

Senate Bill 820, "Clean Energy and Economic Security Act"

I support hydraulic fracturing, or "fracking" for natural gas, because I believe it can and should be part of a comprehensive mix of energy sources that will create jobs, reduce costs for businesses and families, and keep our economy growing. Before we "frack," however, we need strong safeguards in place that are specifically adapted to conditions in North Carolina.

This bill does not do enough to ensure that adequate protections for our drinking water, landowners, county and municipal governments, and the health and safety of our families will be in place before fracking begins. I urged the sponsors of the bill to adopt a few changes to ensure that strong protections would be in place before any fracking would occur.

The General Assembly was unwilling to adopt the changes I suggested. Therefore, I must veto the bill. Our drinking water and the health and safety of North Carolina's families are too important; we can't put them in jeopardy by rushing to allow fracking without proper safeguards.

I urge the General Assembly to continue working on this important issue. If they improve the bill to strengthen the protections for North Carolina families, I will sign it into law.

Therefore, I veto this bill.

Beverly Eaves Perdue

This bill having been vetoed is returned to the Clerk of North Carolina Senate on this 1st day of July 2012, at _____ for reconsideration by that body.

RECEIVED FROM GOVERNOR

Date: 7.1.12

Time: 3:11 p.m.

LOCATION: 116 WEST JONES STREET • RALEIGH, NC • TELEPHONE: (919) 733-5811
WWW.GOVERNOR.STATE.NC.US

Sarah Clapp



RESOLUTIONS
OF THE
STATE OF NORTH CAROLINA

REGULAR SESSION 2012

Resolution 2012-1

S.J.R. 794

A JOINT RESOLUTION ADJOURNING THE RECONVENED SESSION.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. When the House of Representatives and the Senate, constituting the Reconvened 2011 Session of the 2011 General Assembly, adjourn, they stand adjourned to reconvene as provided in Resolution 2011-12 as amended by this resolution.

SECTION 1.1. Section 2.1 of Resolution 2011-12 reads as rewritten:

"SECTION 2.1.(a) When the Senate and the House of Representatives adjourn on Tuesday, November 29, 2011, they stand adjourned to reconvene the 2011 Regular Session on Thursday, February 16, 2012, at 12:00 noon. January 5, 2012, at 12:45 a.m.

"SECTION 2.1.(b) During the regular session that reconvenes on Thursday, January 5, 2012, at 12:45 a.m., only the following matters may be considered:

- (1) Bills returned by the Governor with her objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding of the veto upon reconsideration of the bill.
- (2) A joint resolution further adjourning the 2011 Regular Session to a date certain.

"SECTION 2.1.(c) When the Senate and the House of Representatives adjourn the 2011 Regular Session on Thursday, January 5, 2012, they stand adjourned to reconvene on Thursday, February 16, 2012, at 12:00 noon."

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of January, 2012.

Resolution 2012-2

H.J.R. 1033

A JOINT RESOLUTION EXPRESSING GRATITUDE TO THE MEMBERS OF THE MILITARY FOR THEIR SERVICE AND HONORING THE MEMORY OF THOSE KILLED IN THE LINE OF DUTY.

Whereas, Memorial Day was first observed as Decoration Day on May 30, 1868, as an occasion to decorate the graves of Civil War soldiers; and

Whereas, after World War I, Decoration Day was expanded to honor service members killed in all of our nation's wars and, after World War II, Decoration Day became known as Memorial Day; and

Whereas, in 1971, Congress established Memorial Day as a federal holiday to be observed on the last Monday of May; and

Whereas, as we observe Memorial Day in 2012, it is important to reflect upon the contributions and sacrifices the men and women of our Armed Forces have made in upholding the principles of democracy and liberty while in service to our nation; and

Whereas, it is fitting to honor and commend the North Carolinians, as well as the men and women that served with military units based in North Carolina, who were killed in the line of duty; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly expresses its profound gratitude and appreciation to all the men and women of the United States Armed Forces for their selfless service.

SECTION 2. The General Assembly wishes to honor the memory of all of the members of the military from North Carolina who lost their lives while serving during Operation Iraqi Freedom, Operation Enduring Freedom, and Operation New Dawn since May 25, 2011, as follows:

Chief Special Warfare Operator Christopher G. Campbell, Jacksonville, North Carolina

Captain Shawn P. T. Charles, Hickory, North Carolina

Specialist Junot M. L. Cochilus, Charlotte, North Carolina

Corporal Michael J. Dutcher, Asheville, North Carolina

Staff Sergeant Brandon F. Eggleston, Candler, North Carolina

Specialist Daniel L. Elliott, Youngsville, North Carolina

Specialist David Emanuel Hickman, Greensboro, North Carolina

Specialist Patrick L. Lay II, Fletcher, North Carolina

Lance Corporal Christopher P. J. Levy, Ramseur, North Carolina

Staff Sergeant Leon H. Lucas Jr., Wilson, North Carolina

Staff Sergeant Christopher R. Newman, Shelby, North Carolina

Lance Corporal Nicholas S. O'Brien, Stanley, North Carolina

Staff Sergeant Ergin V. Osman, Jacksonville, North Carolina

Specialist Calvin M. Pereda, Fayetteville, North Carolina

Sergeant Colby Lee Richmond, Providence, North Carolina

Sergeant Jeffrey C. S. Sherer, Four Oaks, North Carolina

SECTION 3. The General Assembly wishes to honor the memory of all the veterans of past wars who have died since the last Memorial Day.

SECTION 4. The General Assembly extends its deepest sympathy to the families of the service members named above who made the ultimate sacrifice to help secure the freedom of the United States of America. The people of the State of North Carolina owe a debt to these brave service members and solemnly pledge that they shall never be forgotten.

SECTION 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of May, 2012.

Resolution 2012-3

H.J.R. 1034

A JOINT RESOLUTION TO CONFIRM THE APPOINTMENT OF TAMARA NANCE TO THE NORTH CAROLINA INDUSTRIAL COMMISSION.

Whereas, G.S. 97-77(a1) provides that appointments by the Governor to the North Carolina Industrial Commission are subject to confirmation by the General Assembly; and

Whereas, the Governor has reappointed Tamara Nance to a new term on the North Carolina Industrial Commission; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The appointment of Tamara Nance to a term on the North Carolina Industrial Commission to begin on July 1, 2012, and expire on June 30, 2018, is confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of June, 2012.

Resolution 2012-4

H.J.R. 1007

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DANIEL LUCAS ELLIOTT, NORTH CAROLINA CITIZEN AND SOLDIER.

Whereas, Daniel "Lucas" Elliott was born in Raleigh, North Carolina, on July 18, 1989, to Patti Elliott and Ed A. Elliott, Jr.; and

Whereas, Lucas showed at an early age a passion for hunting and fishing; and

Whereas, Lucas, by the age of 12, began shooting on a high-powered rifle team in Creedmoor, which led to his development of great skill and the award of medals through the State Games of North Carolina and the National Rifle Association Civilian Marksmanship Program; and

Whereas, Lucas attended Youngsville Elementary School from Kindergarten through 3rd grade, after which he was home-schooled through high school; and

Whereas, Lucas decided to join the military when he was 12 as he watched the destruction of the World Trade Center during the September 11 terrorist attacks; and

Whereas, Lucas was a member of Boy Scout Troop 261, sponsored by the Rolesville Baptist Church, and earned his Eagle Scout designation in January 2007; and

Whereas, Lucas attended Vance-Granville Community College, the Military College of Georgia, and Wake Technical Community College; and

Whereas, Lucas enlisted as a Military Policeman in the United States Army Reserve in January 2007 and completed Basic Training and Advanced Individual Training at Fort Leonard Wood, Missouri; and

Whereas, upon returning to North Carolina, he was attached to the 200th Military Police Command, 805th Military Police Company, located in Cary, North Carolina; and

Whereas, in 2009 Lucas volunteered for deployment with the 810th MP Company, located in Tampa, Florida, and completed a tour of duty in Iraq; and

Whereas, upon his return from Iraq, he reattached to the 805th MP Company, which was on notice for deployment to Iraq; and

Whereas, when Lucas deployed to Iraq in May 2011, he took the full-size North Carolina flag that he had carried to Iraq on his first deployment; and

Whereas, on July 15, 2011, three days before his 22nd birthday, Specialist Daniel Lucas Elliott was killed in action, supporting Operation New Dawn, when enemy forces attacked his unit in Basrah, Iraq, with an improvised explosive device; and

Whereas, Lucas's platoon commander stated that "Elliott was a superb soldier; he would take the time to help anyone, and you could see it on his face how much he enjoyed teaching someone something new. He loved his family, his country, and he was proud to serve his country. He loved what he did, and we will always respect and honor that"; and

Whereas, Specialist Daniel Lucas Elliott was awarded the Bronze Star Medal, the Purple Heart, the Army Commendation Medal, and the Combat Action Badge and is buried at Arlington National Cemetery; and

Whereas, Lucas is survived by his wife; Trisha Elliott, parents Patti Elliott of Youngsville and Ed Elliott of Louisburg; and brother, Brad Elliott of Eatonton, Georgia; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Daniel Lucas Elliott and expresses the appreciation of this State and its citizens for the service he rendered his community, State, and nation.

SECTION 2. The General Assembly extends its deepest sympathy to the family and friends of Daniel Lucas Elliott.

SECTION 3. The General Assembly of North Carolina wishes to express its appreciation for the service of all North Carolina citizen soldiers, and for their families, for their sacrifices and remarkable contributions to the people of the United States and the world.

SECTION 4. The Secretary of State shall transmit a certified copy of this resolution to the family of Daniel Lucas Elliott.

SECTION 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 13th day of June, 2012.

Resolution 2012-5

S.J.R. 865

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ROBERT C. "BOB" CARPENTER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Robert C. "Bob" Carpenter was born on June 18, 1924, in Macon County to Edgar Jackson Carpenter and Eula Dean Carpenter; and

Whereas, Bob Carpenter grew up in Macon County and graduated from Franklin High School in 1942; and

Whereas, Bob Carpenter earned a degree from the University of Virginia's School of Consumer Banking; and

Whereas, Bob Carpenter served as an Aviation Cadet in the United States Navy during World War II; and

Whereas, Bob Carpenter was a bank executive with the Bank of Franklin and the Bank of Asheville and was Vice President of First Union Bank, managing five branches; and

Whereas, Bob Carpenter represented the citizens of Senatorial District 50 with honor and distinction, providing outstanding leadership as a member of the Senate in the North Carolina General Assembly for eight terms between 1988 and 2004; and

Whereas, Bob Carpenter served on numerous boards, including the Macon County Board of County Commissioners; Macon County Economic Development Commission; Board of Southwestern Community College; Franklin First Union Board of Directors, as chair; and the North Carolina Association of Community College Trustees, as president; and

Whereas, Bob Carpenter rendered invaluable service to his community as a member of many civic, political, and youth organizations, including the Knights of Columbus, American Legion, S.A.R.S., and Rotary Club of Franklin; and

Whereas, Bob Carpenter was a faithful member of the Saint Francis Catholic Church in Franklin; and

Whereas, Bob Carpenter will be fondly remembered for his service and integrity, his devotion to his family, and his unwavering spirit in defending his beliefs; and

Whereas, Bob Carpenter died on August 6, 2011, at the age of 87; and

Whereas, Bob Carpenter is survived by his wife, T. Helen Edwards Bryant Carpenter; five children: Robert D. Carpenter, Dale R. Carpenter, Thomas Carpenter, Edgar G. Carpenter, and Christine M. Carpenter; brother, Kenneth Carpenter; and three stepdaughters: Deborah Bryant, Susan Zolo, and Rebecca Prince; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the life and memory of Robert C. "Bob" Carpenter and expresses its appreciation for his accomplishments and for the great service he gave to the State of North Carolina and the citizens of Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain, and Transylvania Counties.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Robert C. "Bob" Carpenter 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 Robert C. "Bob" Carpenter.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Resolution 2012-6

H.J.R. 932

A JOINT RESOLUTION HONORING THE USO OF NORTH CAROLINA FOR PROVIDING EXCEPTIONAL PROGRAMS AND SERVICES TO OUR MILITARY TROOPS AND THEIR FAMILIES.

Whereas, the United Service Organizations (USO) was established in 1941 to provide civilian support for military personnel during World War II; and

Whereas, the first USO facility opened in Fayetteville, North Carolina, in 1941 and was soon followed by other facilities, including one in Jacksonville; and

Whereas, the Jacksonville facility has operated for over 70 years and is the longest continuously operating USO facility in the world; and

Whereas, the Jacksonville USO facility has benefited from the support of many concerned citizens, including Judge Harvey Boney, who supported the facility soon after it opened until his death in 2012; the late William Sheehan, who worked with the facility from 1956 to 1982; and retired Marine Sergeant Major Matthew Hardiman, who served as director of the facility from 1976 to 2000 and was known as "Mr. USO of Jacksonville"; and

Whereas, the USO of North Carolina provides essential services to the many men and women in the military based in our State, which is home to 11% of the U.S. military's active duty forces, seven major military installations, and the fourth largest demographic of active and reserve duty components in the country; and

Whereas, in 2011, the USO of North Carolina served over 407,000 troops in five centers, including three travel-based centers at Charlotte Douglas International Airport, Raleigh-Durham International Airport, and Fayetteville Regional Airport, two installation base centers in Fort Bragg and in Jacksonville/Camp Lejuene, and a mobile unit and information desk at Coastal Carolina Regional Airport in New Bern; and

Whereas, in 2011, an average of 9,000 people each month visited the travel-based centers, which are staffed by volunteers and provide comfortable settings, Internet and phone access, refreshments, play areas for children, and other entertainment options for military personnel and their families; and

Whereas, in 2011, the travel-based centers through their "Honors Support Team" performed over 140 plane-side dignified returns and aided nearly 1,300 family members of fallen service members over the course of that year; and

Whereas, the two installation-based centers serve an average of 50,000 troops and their families, providing assistance with Rack Packs, care packages, deployments, and homecomings and serving as recreation centers; and

Whereas, the USO of North Carolina helps family members stay connected with deployed service members with their "Smiles Over Miles" program, which allows family members in North Carolina to make videos at the centers and send them to deployed loved ones, and "United Through Reading," which gives service members the opportunity to read a

story on video before they are deployed and then have it delivered to their children while they are away; and

Whereas, the USO of North Carolina sponsors other programs, including wounded warrior and family support, surprise birthday cakes for military personnel, seasonal and special programs for the children of deployed service members, holiday meals, and a food pantry for members in need; and

Whereas, the USO of North Carolina is constantly adapting to meet the needs of today's service members and their families, such as providing reading and study skills seminars for parents and children and establishing college campus satellite locations on or near USO facilities to provide resource information and peer-to-peer contacts for military members and their families attending college in our State; and

Whereas, with multiple deployments, financial challenges, mental health issues, nuclear family disruptions, adjustments to injuries, and transitions to civilian life, it is more important than ever that our military personnel receive the benefits and services provided by the USO of North Carolina; and

Whereas, the USO of North Carolina and its more than 700 volunteers should be commended for the outstanding support the organization provides to our service men and women and their families; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly wishes to extend its appreciation to the USO of North Carolina for providing programs and services to our military troops and their families.

SECTION 2. The General Assembly honors the memory of Judge Harvey Boney, who worked and supported the Jacksonville USO since 1940 until his recent death, and William Sheehan, who worked with the Jacksonville USO from 1956 to 1982. The General Assembly also would like to honor retired Marine Sergeant Major Matthew Hardiman, who was Director of the Jacksonville USO for nearly 20 years, serving from 1976 to 2000.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the USO of North Carolina.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Resolution 2012-7

H.J.R. 1223

A JOINT RESOLUTION HONORING THE STATE LIBRARY FOR PROVIDING SERVICE FOR TWO HUNDRED YEARS AND THOSE WHO PLAYED A ROLE IN THE LIBRARY'S SUCCESS.

Whereas, the State Library of North Carolina, which this year celebrates its 200th anniversary, is the principal library of State government; and

Whereas, the State Library was established in 1812 as a collection of books in the office of Secretary of State William Hill; and

Whereas, the State Library is a division of the Department of Cultural Resources and is mandated to serve as the official permanent depository for all State publications; and

Whereas, Carrie L. Broughton, who served as State Librarian from 1918 to 1956, was the first woman to be appointed head of a State department in North Carolina. She systematized the library collection, established a collection of books, periodicals, and newspapers relevant to North Carolina, and began the State's renowned Genealogy Collection; and

Whereas, the State Library is instrumental in collecting, preserving, organizing, and making available materials that document the history of the State of North Carolina; and

Whereas, the State Library develops and supports access to specialized collections for the people of North Carolina, including North Carolina collections and resources for the blind and physically handicapped; and

Whereas, the State Library's Digital Information Management Program identifies and promotes solutions to ensure long-term preservation and ready and permanent public access to born-digital and digitized information produced by, or on behalf of, North Carolina State government; and

Whereas, the State Library helps build the capacity of all libraries in North Carolina, including public libraries, academic libraries, community college libraries, school libraries, and special libraries; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of those who have aided in the success of the State Library, including Carrie L. Broughton.

SECTION 2. The General Assembly commends the State Library for providing invaluable resources to the people of this State for 200 years.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Secretary of the Department of Cultural Resources and to the State Librarian.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 2012.

Resolution 2012-8

H.J.R. 1224

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM MANER "BILL" IVES, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, William Maner "Bill" Ives was born on September 4, 1933, in Jacksonville, Florida, to Anson Jesse Ives and Catherine Ellis Ives; and

Whereas, Bill Ives graduated from Robert E. Lee High School in 1951 and earned a bachelor's degree in Political Science from the University of Florida in 1954; and

Whereas, Bill Ives served as a sergeant in the United States Army from 1954 to 1956 in Korea; and

Whereas, after serving in the army, Bill Ives taught civics at Lake Shore Junior High School; and

Whereas, in 1966, Bill Ives moved his family to Brevard, North Carolina, where he assumed ownership of the Keystone Camp for Girls; and

Whereas, after completing courses at Blue Ridge Community College, Bill Ives later became a licensed general contractor, an electrical contractor, and a plumbing and heating contractor; and

Whereas, Bill Ives served as treasurer of the Transylvania Republican Party from 1977 to 1978, Chair of the Transylvania Republican Party from 1979 to 1980, and Chair of the Transylvania County Board of Commissioners from 1972 to 1976 and from 1980 to 1984; and

Whereas, Bill Ives was elected to the General Assembly in 1992 and went on to serve three terms in the House of Representatives from 1993 to 1998; and

Whereas, during his tenure in the General Assembly, Bill Ives served as Chair of the Human Resources Subcommittee on Families, as Cochair of the Appropriations Subcommittee on General Government, and as a member of several other committees, including Education, Human Resources, Insurance, and State Government; and

Whereas, Bill Ives was an active member of his community, working with Habitat for Humanity and serving as Chair of the Land of Sky Council of Governments, President of the Brevard/Transylvania Chamber of Commerce, President of the Transylvania Historical Society, Chair of the Board of Transylvania Vocational Services, and Cochair of the Building

Committee for the Transylvania Christian Ministry Sharing House; and as a member of the Board of Directors of the North Carolina County Commissioners Association; as trustee of the North Carolina School of Science and Mathematics; and Chair of the Transylvania County Board of Equalization and Review; and

Whereas, Bill Ives was honored with the Esther Wesley Award, which is awarded to a person who consistently devotes himself to the community by the Brevard/Transylvania Chamber of Commerce; the Library Champion Award from the North Carolina Public Library Director's Association; and a Lifetime Services Award from Transylvania Vocation Services; and

Whereas, Bill Ives was a member of the St. Phillip's Episcopal Church in Brevard, where he served on the Vestry and as a Sunday school teacher and warden; and

Whereas, Bill Ives died on April 20, 2011, at the age of 77; and

Whereas, Bill Ives was preceded in death by his first wife, Sue Howe Ives; and

Whereas, Bill Ives is survived by his wife, Ann Sanders Ives; a daughter Page Ives Lemel and husband Dr. Mark Steven Lemel; a son, Anson Bradley Ives and wife Debra Dickenhuth Ives; grandchildren, Catherine Ellis Lemel, Hannah Cecile Lemel, and Samuel Ives Lemel, Lawton Frederick Ives, and Emily Garnett Ives; and a sister, Naudain Ives Sellers; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of William Maner "Bill" Ives and expresses its appreciation of the service he rendered to Transylvania County, the State, and the nation.

SECTION 2. The General Assembly extends its sympathy to the family of William Maner "Bill" Ives 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 William Maner "Bill" Ives.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Resolution 2012-9

S.J.R. 958

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES SUMMERS "JIM" FORRESTER, SR., MD, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, James Summers "Jim" Forrester, Sr. was born on January 8, 1937, in Aberdeen, Scotland, to the late James Summers and Agnes "Nancy" McLennan Forrester of Glasgow, Scotland; and

Whereas, after the death of his father, Jim Forrester, age 11, and his mother, "Nancy," immigrated to the United States; settled in Wilmington, North Carolina, with sponsorship; and later applied for and received their citizenship; and

Whereas, Jim Forrester graduated from New Hanover High School in Wilmington in 1954; earned his Bachelor of Science Degree from Wake Forest University in 1958; graduated from Bowman Gray School of Medicine at Wake Forest University in 1962; completed his internship at North Carolina Baptist Hospital in 1963; received a Master's Degree in Public Health from the University of North Carolina at Chapel Hill in 1978; and was Board Certified in Preventive Medicine in 1984; and

Whereas, Jim Forrester operated a family medical practice in Stanley, North Carolina, for 46 years. He was a member of over 15 professional medical organizations during his career, and he served as the Medical Director at Brian Center Nursing Home and Peak's Nursing Home in Gaston County; and

Whereas, Jim Forrester was a past board member or president of over 16 community service organizations and received over 17 community service awards during his lifetime, including the Order of the Long Leaf Pine and the Jefferson Award for Community Service; and

Whereas, Jim Forrester served his country by flying air evacuation in the Vietnam War, served as a flight surgeon, and performed foreign medical missions in Central America during his military career. He was honored for his service and retired with the rank of Brigadier General with the North Carolina Air National Guard. Jim Forrester's illustrious military career spanned 34 years, and he received over 12 awards and medals for his service, including the Legion of Merit Award; and

Whereas, Jim Forrester served as a member of the North Carolina Senate from 1991 to 2011, during which time he served as Senate Minority Whip, Deputy Republican Leader of the Senate, Republican Leader of the Senate, Joint Republican Caucus Leader; and in 2011, Deputy President Pro Tempore of the Senate; and

Whereas, Jim Forrester was a faithful member, Deacon, and Trustee of the First Baptist Church in Stanley; and

Whereas, Jim Forrester will be fondly remembered for his service and integrity, his devotion to his family and community, and his unwavering spirit in defending his country; and

Whereas, Jim Forrester died on October 31, 2011, at the age of 74, while serving as a member of the North Carolina Senate. He was interred at Arlington National Cemetery on March 26, 2012, with full military honors; and

Whereas, Jim Forrester is survived by his wife of 51 years, Mary Frances All Forrester; his three daughters, Wynn Forrester Maxwell and husband Michael C. Maxwell, MD; Gloria Forrester Lucioni and husband Marco Lucioni; Mary Paige Forrester Blalock and husband Thomas Blalock; and a son, James Summers Forrester, Jr., MD, and wife Teresa Fore Forrester. He is also survived by one sister, Lillian Forrester of Glasgow, Scotland, and eight grandchildren: William Henry Forrester Maxwell, John David Thomas Maxwell, Mary Martha McLennan Maxwell, Tomas Matias Lucioni, Daniel Lucas Lucioni, James Summers Forrester III, Amy Elizabeth Forrester, and William Tyler Forrester; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the life and memory of James Summers "Jim" Forrester, Sr., MD, and expresses its appreciation for his accomplishments and for the great service he gave to the citizens of the United States, the State of North Carolina, and the citizens of Catawba, Cleveland, Gaston, Lincoln, Iredell, and Rutherford Counties.

SECTION 2. The General Assembly extends its deepest sympathy to the family of James Summers "Jim" Forrester, Sr. 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 James Summers "Jim" Forrester, Sr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of June, 2012.

Resolution 2012-10

S.J.R. 960

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ROBERT G. "BOB" SHAW, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Robert G. "Bob" Shaw was born on November 22, 1924, in Erwin, North Carolina, to Robert G. Shaw, Sr., and Annie Byrd Shaw; and

Whereas, Bob Shaw attended Campbell College and the University of North Carolina at Chapel Hill; and

Whereas, Bob Shaw served in the United States Army Air Corps from 1943 to 1946; and

Whereas, Bob Shaw was the owner and operator of the Friendly Road Inn Seafood Restaurant (the "Fish House") in Guilford County for over 56 years; and

Whereas, between 1975 and 1977, Bob Shaw served as chair of the North Carolina Council on Community and Economic Development and chair of the North Carolina Republican Party and as a member of the Natural and Economic Resources Board; and

Whereas, Bob Shaw was a member of the Guilford County Board of County Commissioners from 1968 to 1976, during which time he served as chair and vice-chair; and

Whereas, Bob Shaw was elected to the North Carolina State Senate in 1984 and went on to serve nine terms between 1985-2002; and

Whereas, during his tenure in the General Assembly, Bob Shaw served as Minority Leader of the Senate and made contributions as vice-chair of several committees, including Banks and Thrift Institutions, Finance, and Redistricting, and as a member of numerous committees, including Agriculture/Marine Resources and Wildlife, Commerce, Insurance and Consumer Protections, Pensions & Retirement and Aging, and Transportation; and

Whereas, in 1990, Bob Shaw was awarded the Order of the Longleaf Pine in recognition of his extraordinary service to the State and during that same year received the Legislator of the Year Award from the North Carolina Wildlife Federation; and

Whereas, Bob Shaw was a member of the Westover Church in Greensboro; and

Whereas, Bob Shaw died on Saturday, April 7, 2012, at the age of 87; and

Whereas, Bob Shaw is survived by his wife, Linda Owens Shaw; daughters Barbara Shaw Twining and Ann K. Shaw; stepdaughter Joni Chilton Moffitt; stepson Kyle Chilton; five grandsons, Robbie C. Hewett, Jimmy Twining, John Twining, Michael Twining, and Stephen Twining; and two stepgrandsons, Kevin Moffitt and Ryan Moffitt; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Robert G. "Bob" Shaw and expresses its appreciation for the service he rendered to his community, his State, and his country.

SECTION 2. The General Assembly extends its sympathy to the family of Robert G. "Bob" Shaw 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 Robert G. "Bob" Shaw.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of June, 2012.

Resolution 2012-11

H.J.R. 1233

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE CITY OF KINSTON.

Whereas, the City of Kinston, located along the banks of the Neuse River, is steeped in tradition and culture; and

Whereas, in 1729 a grant of 640 acres of land was given to Robert Atkins in the area later known as Kinston and, for a time, the site was known as Atkins Banks; and

Whereas, on November 3, 1762, the Colonial Assembly established the Town of Kingston and named it in honor of King George III; and

Whereas, in 1777, during the Revolutionary War, North Carolina's first Governor, Richard Caswell, a resident of Kingston, ordered all of the State's records be moved from New Bern to Kingston due to his belief that New Bern's location was vulnerable to attack from the British. The relocation of the records made Kingston the de facto capital of North Carolina.

Meetings of the Council of State, war planning board, and other official gatherings were held in Kingston; and

Whereas, on April 19, 1784, the General Assembly, at the request of the citizens of Kingston, acknowledged our freedom from England and changed the spelling of "Kingston" to "Kinston"; and

Whereas, in 1791, Lenoir County was created from the abolished Dobbs County with the town of Kinston as the seat of the newly formed county; and

Whereas, Kinston has also served as the location of a number of noteworthy events, including two Civil War battles in 1862 and 1865, Kinston becoming the home port to the CSS Neuse, which is a Civil War ironclad gunboat. The first X-ray machine in the South was assembled in Kinston; and

Whereas, the 19th and 20th Centuries brought major trading centers for tobacco, cotton, and prosperity to Kinston. Kinston was known as the "World's Foremost Tobacco Market." During the 20th century, Kinston thrived, becoming a major manufacturer in the textile industry with numerous clothing factories and DuPont; and

Whereas, in 1944 the United States Navy built a United States Marine Corps flying training airfield known as Marine Corps Auxiliary Airfield Kinston. That facility is known today as Kinston Regional Jetport and still possesses the distinction of having a single runway that is one of the longest on the east coast of the United States. In January 1999, ownership of the Kinston Regional Jetport was transferred to the North Carolina Global TransPark Authority, a combined airport-industrial complex designed to attract industry and bring increased economic opportunities to the citizens of Eastern North Carolina and beyond; and

Whereas, Kinston takes pride in its historic sites, serving as the location of 22 sites listed on the National Register of Historic Places; and

Whereas, Kinston has contributed to the cultural prosperity of the State, with the Kinston Community Council for the Arts, a public arts trail, Blue Grass Music Concerts, Sand in the Streets Concerts, Barbeque Festival on the Neuse, and the restored Grainger-Hill Performing Arts Center; and

Whereas, in 1988 and 2009 Kinston was selected as an All-American City; and

Whereas, Kinston is observing its 250th anniversary in 2012; 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 Kinston and honors the historic city for its 250 years of contributions to its community, the State of North Carolina, and the nation.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the City of Kinston.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of July, 2012.

Resolution 2012-12

S.J.R. 961

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2011 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 2011 Session of the General Assembly, adjourn on Tuesday, July 3, 2012, they stand adjourned sine die.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

**EXECUTIVE ORDERS
OF
GOVERNOR BEVERLY E. PERDUE**

Title	Executive Order Number
FURTHER EXTEND UNEMPLOYMENT BENEFITS TO PROTECT THE SAFETY, HEALTH, AND WELFARE OF NORTH CAROLINA’S LONG-TERM UNEMPLOYED	113
PROCLAMATION OF A STATE OF DISASTER FOR BURKE AND RUTHERFORD COUNTIES.....	114
PROCLAMATION OF A STATE OF DISASTER FOR PAMLICO AND TYRRELL COUNTIES	115
ESTABLISH A MORATORIUM ON THE COLLECTION OF NEW TOLLS FOR THE NORTH CAROLINA FERRY SYSTEM.....	116
PROCLAMATION OF A STATE OF DISASTER FOR CHEROKEE COUNTY.....	117
HIGH STANDARDS FOR SHALE GAS DEVELOPMENT IN NORTH CAROLINA	118
EXTENDING THE GOVERNOR’S GANG TASK FORCE.....	119
EMERGENCY RELIEF FOR TROPICAL STORM DEBBY.....	120
EMERGENCY RELIEF FOR STATES IMPACTED BY SEVERE WEATHER.....	121
STATE TRANSPORTATION LOGISTICS COORDINATING COUNCIL.....	122
NORTH CAROLINA STATEWIDE INDEPENDENT LIVING COUNCIL.....	123

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 113

FURTHER EXTEND UNEMPLOYMENT BENEFITS TO PROTECT THE SAFETY, HEALTH, AND WELFARE OF NORTH CAROLINA'S LONG-TERM UNEMPLOYED

WHEREAS, the United States Congress previously passed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) (hereinafter "Tax Relief Act"), to provide a temporary mechanism for states to amend the criteria used to determine whether the State may pay extended benefits to its unemployed citizens; and

WHEREAS, to ensure that 47,000 unemployed North Carolinians had access to these extended benefits, I issued Executive Order No. 93 on June 3, 2011, which authorized the former Employment Security Commission to provide extended benefits under the temporary federal mechanism and to take actions necessary to comply with the federal requirements for paying extended benefits; and

WHEREAS, the North Carolina General Assembly subsequently passed legislation in Session Law 2011-145, section 6.16, which codified the provisions of Executive Order No. 93, with the stated intent of the legislature to allow extended benefits to be paid under the Tax Relief Act so long as it did not hinder the State's ability to reduce its debt owed to the federal government for unemployment benefits; and

WHEREAS, Executive Order No. 93 expired upon passage of Session Law 2011-145, and Section 6.16 of Session Law 2011-145 expired on January 1, 2012; and

WHEREAS, on December 23, 2011, Congress passed an extension of the Tax Relief Act to grant a longer time period to use the aforementioned temporary mechanism for paying extended benefits; and

WHEREAS, to be able to continue to provide such extended benefits for our State's long-term unemployed, North Carolina needs to modify the criteria to meet the applicable federal requirements under which extended benefits are payable; and

WHEREAS, it is important for the State of North Carolina to have access to all tools that will help the State and its citizens during these difficult economic times; and

WHEREAS, providing such extended benefits will not create a cost to the unemployment

fund of the State of North Carolina; and

WHEREAS, it is vital to the welfare and economic security of North Carolinians that they be eligible to receive extended benefits, and it is in the best interests of the State of North Carolina that these benefits be paid in a timely manner; and

WHEREAS, it is in the best interests of North Carolina that unemployed citizens of our State be permitted to benefit from all existing unemployment programs; and

WHEREAS, Article III, Section 1 of the State Constitution invests the executive power of the State in the Governor; and

WHEREAS, North Carolina General Statute § 143B-4 provides that the Governor, in accordance with Article III of the Constitution of North Carolina, is the Chief Executive Officer of the State and is responsible for formulating and administering the policies of the executive branch of the State government; and

WHEREAS, the Governor is the sole official liaison between the government of this State and the government of the United States; and

WHEREAS, the Governor is the sole signatory for the State on agreements and contracts with the United States Department of Labor; and

WHEREAS, the North Carolina Department of Commerce Division of Employment Security (hereinafter, the "Division of Employment Security") is an agency of the executive branch of North Carolina state government and subject to the policies formulated and administered by the Governor, and is authorized by N.C. Gen. Stat. Chapter 96 to administer the extended benefits program in the State of North Carolina; and

WHEREAS, based upon the aforementioned provisions of the North Carolina Constitution and the North Carolina General Statutes, I hereby choose to exercise my authority because the extended benefits addressed by this Executive Order are federal funds that are being made available to the State of North Carolina by the United States Department of Labor without the need for any appropriation of state funds by the North Carolina General Assembly.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

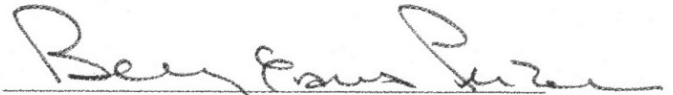
1. The Division of Employment Security shall use the following criteria to provide extended benefits to unemployed North Carolina citizens, pursuant to the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), as amended, for weeks of unemployment beginning after December 17, 2010, and ending on or before the earlier of the latest date permitted under federal law or the end of the fourth week prior to the last week for which federal sharing is provided as authorized by Section 2005(a) of Public Law 111-5 without regard to Section 2005(c) of Public Law 111-5:
 - a. The state has an "on indicator" provided that:
 - 1) The average rate of insured unemployment, not seasonally adjusted, equaled

or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding three calendar years and equaled or exceeded five percent (5%); or

- 2) The average rate of total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent (6.5%) and equals or exceeds one hundred ten percent (110%) of such average rate for any (or all) of the corresponding three-month periods ending in the three preceding calendar years.
 - b. The state is in a high unemployment period provided that the average rate of total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds eight percent (8%) and equals or exceeds one hundred ten percent (110%) of such average rate for any (or all) of the corresponding three-month periods ending in the three preceding calendar years.
2. The Division of Employment Security is hereby granted the authority to take any necessary actions to comply with the federal requirements for paying extended benefits.
 3. Notwithstanding any other provision of this Executive Order, the Division of Employment Security shall not use the criteria outlined above unless it ensures that any payment of extended benefits provided under this Executive Order does not hinder the State's ability to reduce the debt it owes to the federal government for unemployment benefits.
 4. This Executive Order is effective immediately and shall remain in effect until rescinded or until legislation has been enacted and signed into law that would achieve the results set out herein.

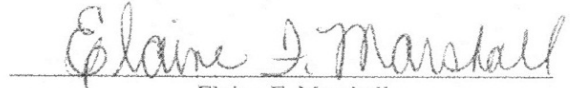
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this eleventh day of January in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-fifth.





Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 114

PROCLAMATION OF A STATE OF DISASTER FOR BURKE AND RUTHERFORD COUNTIES

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a proclamation defining an area as a disaster area as defined in N.C.G.S. § 166A-6 and categorizing the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on January 11, 2012, the counties of Burke and Rutherford in North Carolina were impacted by a series of severe weather incidents, including high winds, and tornadoes; and

WHEREAS, as a result of the severe weather and tornadoes, Burke County proclaimed a local state of emergency on January 11, 2012; and

WHEREAS, as a result of the severe weather and tornadoes, Rutherford County proclaimed a local state of emergency on January 11, 2012; and

WHEREAS, a joint preliminary damage assessment was done by local, state and federal emergency management officials on January 13, 2012; and

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 in the counties of Burke and Rutherford; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) the counties of Burke and Rutherford declared local states of emergency pursuant to N.C.G.S. § 166A-8; (3) the preliminary damage assessment has met or exceeded 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; and

WHEREAS, pursuant to N.C.G.S. § 166A-6.01, if a State of Disaster is proclaimed, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

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 Type I State of Disaster is hereby declared for Burke County and Rutherford County.

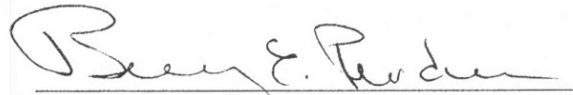
Section 2. I authorize state disaster assistance in the form of individual assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. § 166A-6.01(b)(1).

Section 3. 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) to be promptly filed with the Secretary of the Department of 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 ensure proper implementation of this proclamation.

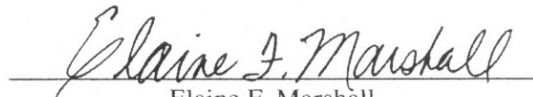
Section 4. This Type I Disaster Declaration shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

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 eighteenth day of January in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 115

PROCLAMATION OF A STATE OF DISASTER FOR PAMLICO AND TYRRELL COUNTIES

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a proclamation declaring an area to be a disaster area as defined in N.C.G.S. § 166A-6 and categorizing the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on August 27, 2011, Hurricane Irene made landfall on the coast of North Carolina as a Category 1 Hurricane causing a storm surge of two to four feet along parts of the Outer Banks and eight to 10 feet along parts of the Pamlico Sound, resulting in sound side and inland river flooding; and

WHEREAS, on September 1, 2011, President Barack Obama approved a major federal disaster declaration for Pamlico, Tyrrell and 38 other counties for public assistance under the Robert T. Stafford Act, FEMA Declaration 4019-DR; and

WHEREAS, due to flooding from Hurricane Irene, the school systems in the counties of Pamlico and Tyrrell sustained substantial damages to many of their school facilities; and

WHEREAS, due to a lapse in the flood insurance for Pamlico and Tyrrell counties, these systems were not eligible for full public assistance from FEMA; and

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 in the counties of Pamlico and Tyrrell, due to flood damage to the school facilities in those areas and the lack of adequate federal assistance under FEMA Declaration 4019-DR to repair the damage; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a Type II disaster are met if the President of the United States has issued a major disaster declaration pursuant to the Robert T. Stafford Act; and

WHEREAS, pursuant to N.C.G.S. § 166A-5(1)a.9, the Governor is authorized and empowered to use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of a disaster, and to reallocate such other funds as may

reasonably be available within the appropriations of the various departments when the severity and magnitude of such disaster so requires and the contingency and emergency funds are insufficient or inappropriate; and

WHEREAS, pursuant to N.C.G.S. § 166A-6(b)(1), during a state of disaster, the Governor has the power to utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services.

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 Type II State of Disaster is hereby declared for Pamlico and Tyrrell Counties.

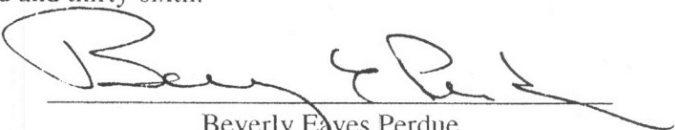
Section 2. I authorize state disaster assistance in the form of a loan program to the eligible entities located within the disaster area as allowed under N.C.G.S. § 166A-5(1)a.9.

Section 3. 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) to be promptly filed with the Secretary of the Department of 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 ensure proper implementation of this proclamation.

Section 4. This Type II Disaster Declaration shall expire six months after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of three months each, not to exceed a total of 12 months from the date of first issuance.

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-first day of February in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 116

ESTABLISH A MORATORIUM ON THE COLLECTION OF NEW TOLLS FOR THE NORTH CAROLINA FERRY SYSTEM

WHEREAS, the North Carolina Department of Transportation (“DOT”) operates ferries connecting components of the State highway system; and

WHEREAS, the ferry system is essential to our State’s citizens who use the ferries each day as a means of transportation to pursue their livelihoods; and

WHEREAS, the ferry system is also important to the State’s travel and tourism industry as a mode of transportation for thousands of tourists who explore North Carolina’s coastal areas each year; and

WHEREAS, a number of the ferries currently operating are offered at no expense to the public; and

WHEREAS, pursuant to Session Law 2011-145, section 31.30, the North Carolina General Assembly directed the Board of Transportation, no later than April 1, 2012, to establish tolls for all ferry routes, except for the Ocracoke/Hatteras Ferry and the Knotts Island Ferry; and

WHEREAS, while our State and nation are beginning to rise out of the recent economic recession, many of our citizens are still struggling to regain their economic footing; and

WHEREAS, the citizens and counties of coastal North Carolina continue to recover from the devastation caused by Hurricane Irene, which made landfall in coastal North Carolina on August 27, 2011; and

WHEREAS, North Carolina’s coastal counties continue to experience a slower economic recovery than other areas of the State due to the impact of Hurricane Irene; and

WHEREAS, it is crucial that our citizens who use the ferry system are not burdened with extra costs that threaten to negatively impact their economic progress and well-being; and

WHEREAS, it is also important that our State not impose additional costs that could reduce the attractiveness of our coastal areas as a tourist destination, thus harming our travel and tourism industry; and

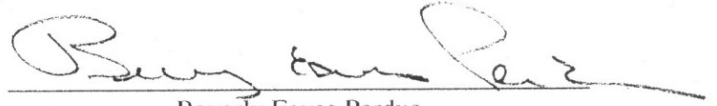
WHEREAS, N.C. Gen. Stat. § 136-82 directs DOT to use its discretion to only collect such tolls as it deems expedient in the exercise of its discretion.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

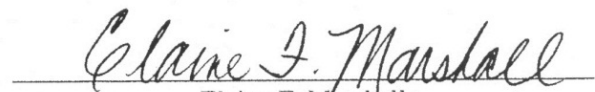
1. Due to the harm that the collection of newly established or increased tolls threatens to cause to the economic well-being of the State's citizens, immediately upon the establishment of any new tolls as set out in Session Law 2011-145, section 31.30, the DOT shall place a moratorium on the collection of all such newly established tolls and all increases in existing tolls. The moratorium shall remain in place for a minimum period of twelve (12) months unless said moratorium is ended by act of the General Assembly within that period of time.
2. At the conclusion of the moratorium, the DOT shall review the economic conditions of the State and its citizens and make a recommendation as to whether the moratorium should be extended.
3. The Secretary of DOT is also directed to immediately conduct a comprehensive review of all existing costs and expenses within the DOT to identify sufficient savings to offset budgeted revenue that was anticipated to be collected from any new or increased tolls established pursuant to Session Law 2011-145, section 31.30. Savings identified by the Secretary of DOT shall be used to offset said anticipated budgeted revenues.
4. In addition, the DOT shall immediately cease ongoing construction of all new tolling infrastructure commenced in response to Session Law 2011-145, section 31.30, and shall refrain from renewing said construction while the above-referenced moratorium is in effect.

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-ninth day of February in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 117

PROCLAMATION OF A STATE OF DISASTER FOR CHEROKEE COUNTY

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a proclamation declaring an area to be a disaster area as defined in N.C.G.S. § 166A-6 and categorizing the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on March 3, 2012, Cherokee County, North Carolina was impacted by severe weather, including severe thunderstorms, high winds, and tornadoes; and

WHEREAS, as a result of the damage from the severe weather and tornadoes, Cherokee County proclaimed a local state of emergency on March 3, 2012; and

WHEREAS, a joint preliminary damage assessment was done by local, state and federal emergency management officials on March 5, 2012; and

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 in Cherokee County; and

WHEREAS, pursuant to N.C.G.S. § 166A-6, the criteria for a Type I disaster are met if: (1) the Secretary of the Department of Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) Cherokee County declared a local state of emergency pursuant to N.C.G.S. § 166A-8; (3) the preliminary damage assessment has met or exceeded 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; and

WHEREAS, pursuant to N.C.G.S. § 166A-6.01, if a State of Disaster is proclaimed, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

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 Type I State of Disaster is hereby declared for Cherokee County.


Section 2. I authorize state disaster assistance in the form of individual assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. § 166A-6.01(b)(1).

Section 3. 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) to be promptly filed with the Secretary of the Department of 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 ensure proper implementation of this proclamation.

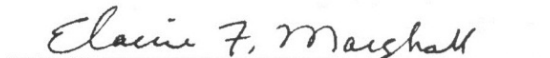
Section 4. This Type I Disaster Declaration shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

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 twelfth day of March in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State
*By and through Rodney S. Maddox
Chief Deputy Secretary of State*

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 118

HIGH STANDARDS FOR SHALE GAS DEVELOPMENT IN NORTH CAROLINA

WHEREAS, North Carolina seeks to develop an energy policy that creates jobs, reduces costs on businesses and families, and lessens our reliance on foreign oil while balancing the need to protect the public health and safety of our citizens and to maintain our state's natural resources; and

WHEREAS, the North Carolina Geological Survey has identified potential shale gas resources in North Carolina; and

WHEREAS, studies suggest that drilling for shale gas resources using hydraulic fracturing in the Sanford sub-basin will yield economic benefits, including an average of 387 jobs per annum over seven years; and

WHEREAS, despite its potential economic benefits, oil and gas exploration and production can lead to the disturbance of large areas of land to develop access roads, well pads, impoundments and other infrastructure; and

WHEREAS, water quality problems have been associated with oil and gas operations; and

WHEREAS, North Carolina statutes and rules have not been written to address natural gas development using hydraulic fracturing; and

WHEREAS, it is important that any regulatory framework for hydraulic fracturing reflect high standards that will protect the public health and safety of the citizens of North Carolina and protect the environment, while allowing for the development our state's shale gas resources and this industry.

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. Regulatory Workgroup

The Department of Commerce Division of Energy, in conjunction with the Department of Environment and Natural Resources, shall organize a workgroup to develop recommendations for a regulatory framework and interagency protocols for oil and gas exploration and development including, but not limited to environment, commercial, logistics/transportation, public safety, and worker safety regulations. The workgroup shall include representatives from the Department of Health and Human Services Division of Public Health, the Department of Revenue, the Department of Transportation, and the State Highway Patrol. In addition, the workgroup organizers shall invite representatives of the North Carolina Utilities Commission, the Department of Labor, and the Office of Attorney General Consumer Protection Division to participate in the workgroup. The workgroup organizers shall also invite the Speaker of the North Carolina House of Representatives, the President Pro Tempore of the North Carolina Senate, the Minority Leader of the North Carolina House of Representatives, and the Minority Leader of the North Carolina Senate to each appoint a representative to participate in the workgroup. The workgroup organizers shall use their reasonable best efforts to ensure that all invited representatives have an opportunity to participate in a meaningful way in all workgroup activities. The workgroup organizers shall also reach out to stakeholders to collaborate in implementing this Executive Order.

Section 2. Guiding Principles

In developing recommendations, the Regulatory Workgroup shall consider the following guiding principles:

A. Public Health and Safety

1. Precautions must be implemented to protect the state's drinking water and to safeguard the health and safety of all North Carolinians.
2. Studies must be employed to allow long-term tracking of health impacts in areas with shale gas development.
3. State and local first responders and industry must be prepared for any industry-related emergencies, and a statewide law enforcement agency must be identified as the lead responder in such emergencies.

B. Environmental Impacts and Regulatory Framework

1. In establishing environmental standards for an effective oil and gas regulatory framework, the recommendations from the Department of Environment and Natural Resources' *North Carolina Oil and Gas Study Under Session Law 2011-276* report and from the *State Review of Oil and Natural Gas Environmental Regulations* (STRONGER) report must be adopted as a baseline.

2. Full disclosure of hydraulic fracturing chemicals and prior certification of components must be studied.
3. Sensitive areas, such as floodplains, must be identified where oil and gas exploration and production activities should be prohibited.

C. Public Input

The public must be afforded the opportunity to provide significant input regarding the creation of regulations for the oil and gas industry.

D. Consumer Protection

Restrictions must be considered that would provide protections to the consumer, such as limiting the lengths of lease terms, requiring registration of certain company representatives, requiring leases to be registered to allow public access, requiring notification of lease transfers, and determining whether to allow forced pooling.

E. Worker Safety

Adequate training must be provided for regulatory personnel, across disciplines, on distinct regulations for the oil and gas industry.

F. Logistics, Transportation and Local Government Impacts

1. Resources and regulations must be adopted to protect the billions of dollars invested in North Carolina's transportation system and to ensure that the transportation infrastructure is prepared for the additional usage created by the industry.
2. Appropriate consideration must be given to address the impact on local governments and local infrastructure.

G. Commercial Industry Standards

1. To provide for the orderly development of the oil and gas industry, the protection of correlative property rights for owners to ensure that owners have a fair and reasonable opportunity to obtain and produce an equitable share of oil and gas resources must be studied.
2. Industry must be held accountable for damages related to exploration and production, including damage to neighboring properties.
3. Companies must be required to make commercial and financial disclosures to the State that are consistent with disclosures that are made to the federal government.

H. Adequate Resources and Revenue Structures

1. Adequate resources must be provided across all agencies to support effective regulation of the oil and gas industry and to support proper and robust enforcement of those regulations.
2. Any licensing or operating fees and industry taxes that are implemented must appropriately reflect impacts related to the industry including, but not limited to, infrastructure, emergency preparedness, public safety, environmental programs, local governments, preservation and reclamation of water, records management, worker training, the judicial system, and social services.

Section 3. Report

Approximately six months after the effective date of this order, and approximately every six months thereafter, the Department of Commerce Division of Energy shall report the progress, findings, and any recommendations of the Regulatory Workgroup to the Governor.

Section 4. Effect and Duration

This Executive Order is 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 twenty-first day of May in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.



Beverly Eaves Perdue

Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Elaine F. Marshall *by and through*
Secretary of State *Rodney S. Maddox*
Chief Deputy

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NUMBER 119

EXTENDING THE GOVERNOR'S GANG TASK FORCE

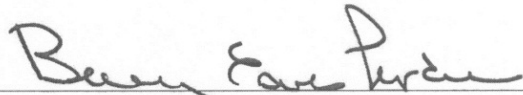
By the power vested in me as Governor by the laws and Constitution of North Carolina,
IT IS ORDERED:

Executive Order Number 69, *Governor's Gang Task Force*, is hereby extended until June 30, 2013. The terms of the members of the Task Force are hereby extended until June 30, 2013.

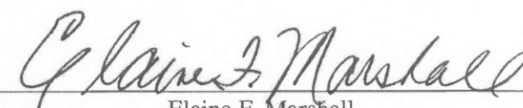
This order is effective immediately.

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 twelfth day of June in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 120

EMERGENCY RELIEF FOR TROPICAL STORM DEBBY

WHEREAS, due to the impact and disaster associated with Tropical Storm Debby, vehicles bearing equipment and supplies to relieve the damage to Florida and other states impacted by the storm need to be moved on the highways of North Carolina; and

WHEREAS, under the provisions of N.C.G.S. §§ 166A-5(1)(a)(1) and 166A-6(c)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing equipment and supplies to relieve Florida's and other states' grief-stricken areas must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118. I have further found that citizens in those states have suffered losses and will likely suffer imminent further widespread damage within the meaning of N.C.G.S. § 166A-4(1a) will occur and;

WHEREAS, the prompt restoration of utility services to citizens is essential to their safety and well being; and

WHEREAS, 49 CFR § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. §§ 166A-4 and 166A-6.03(b), the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels, food, water, and medical supplies, and for restoration of utility services.

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.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers prescribed by the Department of Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting equipment and supplies to relieve Florida and other states impacted by the storm.

Section 3.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle and vehicle combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.
- d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend "Oversized Load" in 10 inch black letters 1.5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding 8 feet 6 inches in width.

Section 4.

Vehicles referenced under Sections 2 and 3 shall be exempt from the following registration requirements:

- a. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.

- b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.
- c. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 5.

The size and weight exemption for vehicles will be allowed on all North Carolina Interstate Highways Only.

Section 6.

The waiver of regulations under Title 49 of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) do not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 7.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 6 of this Executive Order in a manner which will implement these provisions without endangering motorists in North Carolina.

Section 8.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with transporting equipment and supplies to relieve Florida and other states impacted by the storm.

Section 9.

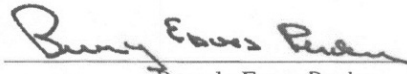
This order is adopted pursuant to my powers under Article 1 of Chapter 166A of the General Statutes and not under my authority under Article 36A of Chapter 14 of the General Statutes. It does not trigger the limitations on weapons in N.C.G.S. § 14-288.7 or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages.

Section 10.

This Executive Order is effective immediately and shall remain in effect for thirty (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 twenty-fifth day of June in the year of our Lord two thousand and eleven, and of the Independence of the United States of America the two hundred and thirty-sixth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER 121

EMERGENCY RELIEF FOR STATES IMPACTED BY SEVERE WEATHER

WHEREAS, the Governors of Maryland, Ohio, Virginia, West Virginia and the Government of the District of Columbia have proclaimed that a State of Emergency exists in those areas due to severe weather that impacted those areas on the evening of June 29th and early hours of June 30th 2012; and

WHEREAS, vehicles bearing equipment and supplies to relieve the damage to Maryland, Ohio, Virginia, West Virginia and the District of Columbia need to be moved on the highways of North Carolina; and

WHEREAS, under the provisions of N.C.G.S. §§ 166A-5(1)(a)(1) and 166A-6(c)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing equipment and supplies to relieve Maryland, Ohio, Virginia, West Virginia and the District of Columbia must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118. I have further found that citizens in those states have suffered losses and will likely suffer imminent further widespread damage within the meaning of N.C.G.S. § 166A-4(1a) and;

WHEREAS, the prompt restoration of utility services to citizens is essential to their safety and well being; and

WHEREAS, 49 CFR § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

WHEREAS, under N.C.G.S. §§ 166A-4 and 166A-6.03(b), the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels, food, water, and medical supplies, and for restoration of utility services.

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.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers prescribed by the Department of Public Safety pursuant to N.C.G.S. § 20-381.

Section 2.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting equipment and supplies to relieve Maryland, Ohio, Virginia, West Virginia and the District of Columbia.

Section 3.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle and vehicle combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend "Oversized Load" in 10 inch black letters 1 5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding 8 feet 6 inches in width.

Section 4.

Vehicles referenced under Sections 2 and 3 shall be exempt from the following registration requirements:

- a. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.
- b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.
- c. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

Section 5.

The size and weight exemption for vehicles will be allowed on all North Carolina Interstate Highways Only.

Section 6.

The waiver of regulations under Title 49 of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) does not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 7.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 6 of this Executive Order in a manner which will implement these provisions without endangering motorists in North Carolina.

Section 8.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with transporting equipment and supplies to relieve Maryland, Ohio, Virginia, West Virginia and the District of Columbia.

Section 9.

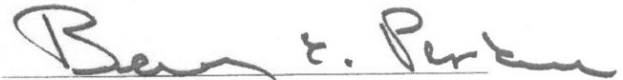
This order is adopted pursuant to my powers under Article 1 of Chapter 166A of the General Statutes and not under my authority under Article 36A of Chapter 14 of the General Statutes. It does not trigger the limitations on weapons in N.C.G.S. § 14-288.7 or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages.

Section 10.

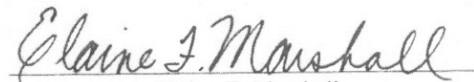
This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

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 first day of July in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 122

STATE TRANSPORTATION LOGISTICS COORDINATING COUNCIL

WHEREAS, the Governor's Logistics Task Force, established by Executive Order 32, studied and focused on how logistics and transportation assets are managed in the State of North Carolina; and

WHEREAS, the Governor's Logistics Task Force recommended the creation of a consolidated body to provide better coordination of the State's logistic assets and to accelerate economic development in the State of North Carolina by cross sector partnership among the State's transportation logistic entities, including the North Carolina Global TransPark, the North Carolina State Ports Authority, and the North Carolina Railroad Company; and

WHEREAS, in response to the recommendation of the Governor's Logistics Task Force, I established the State Transportation Logistics Coordinating Council in Executive Order 85, which is no longer in effect, and the Council needs to be reestablished.

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 State Transportation Logistics Coordinating Council (hereinafter the "Council") is hereby reestablished.

Section 2. **Membership**

The Council shall serve at the pleasure of the Governor. The Governor shall appoint members to the Council as follows:

- a. The Commissioner of Agriculture;
- b. The Secretary of Transportation, who shall serve as Chair of the Council;
- c. The Secretary of the Department of Commerce;
- d. The Secretary of the Department of Environment and Natural Resources;
- e. The Chief Executive Director of the North Carolina State Ports Authority;
- f. The President of the North Carolina Railroad Company;
- g. The Executive Director of the North Carolina Global TransPark; and
- h. Other persons as determined necessary by the Chair.

Section 3. Duties

The Council shall identify areas for cooperation among the State's transportation logistics entities and shall work to implement such cooperation. Areas for review and action shall include, but not be limited to, the following issues:

- a. improving the State's transportation services,
- b. coordinating on projects to create or expand companies in North Carolina,
- c. coordinating on projects to attract companies to the State, and
- d. sharing personnel and resources to the fullest extent practicable.

Section 4. Meetings

The Council shall meet quarterly or upon the call of the Governor or the Chair. A majority of the Council shall constitute a quorum for the transaction of business.

Section 5. Administration

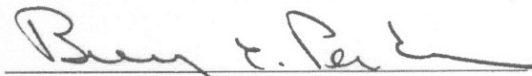
The Council shall be administratively housed in the Department of Transportation. The Department shall provide clerical support and other services required by the Council. No per diem allowance shall be paid to members of the Council. Members of the Council and staff may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 6. Effect and Duration

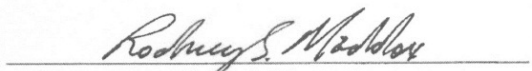
This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until July 22, 2016, pursuant to N.C. Gen. Stat. § 147-16.2, unless earlier rescinded.

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 twenty-third day of July in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Chief Deputy Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 123

NORTH CAROLINA STATEWIDE INDEPENDENT LIVING COUNCIL

WHEREAS, the federal Rehabilitation Act of 1973, as amended, (hereinafter the "Rehabilitation Act") recognized the importance of empowering individuals with disabilities to maximize employment, economic self-sufficiency, independence, inclusion, and integration into society, and the importance of assisting states and providers of services in fulfilling the aspirations of individuals with disabilities for meaningful and gainful employment and independent living; and

WHEREAS, the purpose of independent living services and centers for independent living is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, individual advocacy, and systems advocacy, in order to maximize the leadership, empowerment, independence and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society; and

WHEREAS, it is essential for North Carolinians with disabilities to have the opportunity to meet the goals and purposes outlined in the Rehabilitation Act; and

WHEREAS, a Statewide Independent Living Council established under federal law has existed in North Carolina for over 20 years, and has operated as an independent, nonprofit, 501(c)(3) corporation since 2006; and

WHEREAS, the Statewide Independent Living Council is an important part of the State's continued service to its citizens with disabilities, and

WHEREAS, Title VII, Section 705 of the Rehabilitation Act requires that, in order to be eligible to receive financial assistance under the Rehabilitation Act, each state must formally establish a statewide independent living council through the authority of the state; and

WHEREAS, establishing the North Carolina Statewide Independent Living Council through the authority of the State is necessary to comply with federal law and will help articulate the Governor's standards and expectations for the Statewide Independent Living Council so that it may continue to promote independent living, dignity, inclusion and non-discrimination for all people with disabilities 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

- a. The North Carolina Statewide Independent Living Council (hereinafter the "Council"), is hereby established. The Council shall continue its service to the citizens of North Carolina to meet the requirements of the Rehabilitation Act of 1973; to provide guidance for providing, expanding, and improving the provision of independent living services; and to develop and support statewide networks of centers for independent living.
- b. The Council shall exist as an entity independent of any other agency or political subdivision of the State. The Council may operate as a 501(c)(3) entity organized under Chapter 55A of the North Carolina General Statutes.

Section 2. Membership

- a. All members of the Council shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Governor shall select members after soliciting recommendations from representatives of entities representing a broad range of individuals with disabilities and entities interested in assisting individuals with disabilities.
- b. The Council shall consist of no more than 20 voting members.
- c. The Council shall be composed of members who provide diversity in gender, race and statewide geographic representation, who represent a broad range of individuals with disabilities, and who are knowledgeable about centers for independent living and independent living services.
- d. A majority of the Council's total membership (including voting and ex-officio members) shall be individuals with disabilities, as defined in 34 C.F.R. § 364.4(b), and shall not be employed by any State agency or center for independent living. Additionally, a majority of the Council's voting members also shall be individuals with disabilities, as defined in 34 C.F.R. § 364.4(b), and shall not be employed by any State agency or center for independent living.
- e. The Council shall include the following voting members:
 1. One director of a center for independent living, selected by the Governor from two directors who are chosen and nominated by the directors of centers within the State.
 2. One director of an American Indian Vocational Rehabilitation Services project that is carried out under Section 121 of the Rehabilitation Act.
 3. At least ten individuals with disabilities.

- f. The Council may also include the following voting members, provided that such appointments must be consistent with the requirements of Section 2.d:
 - 1. A parent and/or legal guardian of an individual with a disability.
 - 2. A representative of the private business sector.
 - 3. A representative of a community college, college or university who is familiar with services for individuals with disabilities.
 - 4. A representative of a nonprofit organization that provides services for or advocates for individuals with disabilities.
 - 5. Other individuals as determined by the Governor.
- g. The Council shall include the following ex-officio, non-voting members:
 - 1. A representative of each of the designated state units (the Division of Vocational Rehabilitation and the Division of Services for the Blind).
 - 2. A representative from the state's federally mandated protection and advocacy entity.
 - 3. A representative of the Council on Developmental Disabilities.
 - 4. A representative of the Client Assistance Program.
 - 5. A representative of the Division of Services for the Deaf and Hard of Hearing.
- h. Council members shall serve terms of three years which shall expire on August 15. Provided, however, that initial appointment terms for the voting members of the Council shall be staggered for one, two, or three years so that approximately one-third of the terms expire each year. Vacancies on the Council shall be filled by the Governor. In the event of a vacancy caused by a reason other than the expiration of a term, the Governor shall appoint a person to serve for the remainder of the unexpired term. A vacancy shall not affect the power of the remaining members to execute the duties of the Council.
- i. No member of the Council may serve for more than two full consecutive terms. For purposes of this subsection, a member who serves two years or more of an unexpired or partial term is considered to have served one full term. A member is not permitted to continue serving in holdover once he/she completes two full consecutive terms on the board. Any member who has served for two full consecutive terms is not eligible to serve on the Council again for at least one year from the date his/her appointment ended.

Section 3. Meetings and Operations of the Council

- a. The Council shall select a Chairperson from among the voting members of the Council and may select from among the voting members of the Council other officers as the Council deems necessary.
- b. The Council shall adopt procedures consistent with federal law, state law and this Executive Order governing its organization and operations.

- c. The Council shall meet at least quarterly, at the call of the Chairperson or the Governor, or as otherwise provided in procedures adopted by the Council. The Council may hold any hearings or forums that are necessary to fulfill Council duties.
- d. The Council shall conduct all business at public meetings in compliance with the Open Meetings Law, N.C. General Statutes Chapter 143, Article 33C. Public notice of the time, date and place of each meeting shall be given in the manner required by the Open Meetings Law.
- e. For the purpose of transacting the business of the Council, a quorum shall consist of a simple majority of voting members.

Section 4. Ethics and Other Standards

Members of the Council shall be subject to the requirements of the State Government Ethics Act, N.C. General Statute Chapter 138A. Members of the Council shall also be subject to the provisions of Executive Order 34 (2009), *Ethics and Attendance Standards for Gubernatorial Appointees to Boards*.

Section 5. Duties

In working with the designated state unit(s) and other state agencies and private entities to maximize employment, economic self-sufficiency, independence, inclusion, and integration into society for individuals with disabilities, the Council shall have the following duties:

- a. Jointly develop and sign, in conjunction with the designated state unit(s), the State Plan required by the Rehabilitation Act.
- b. Monitor, review and evaluate the implementation of the State Plan.
- c. Coordinate activities with the North Carolina Vocational Rehabilitation Council, and other state councils or entities that address the needs of specific disability populations and issues under other federal law.
- d. Submit to the United States Secretary of Education all periodic reports as the Secretary may reasonably request. Keep records and afford access to the records as the Secretary finds necessary to verify the periodic reports. Copies of any reports submitted under this paragraph shall be provided to the Office of the Governor as well as to the representatives of state agencies identified in Section 2.g.
- e. In conjunction with the designated state unit(s), prepare a resource plan for the provision of resources for the Council, including staff and personnel, made available under parts B and C of Chapter 1 of Title VII of the Rehabilitation Act, Section 110 (consistent with Section 101(a)(18)), and from other public and private sources that may be necessary to carry out the Council's functions. A description of the Council's resource plan must be included in the State Plan. The Council is responsible for the proper expenditure of funds

and use of resources that it receives under the resource plan. The Council shall ensure that any additional federal requirements regarding the resource plan are met.

- f. Consistent with applicable state and federal law, supervise and evaluate staff and personnel as may be necessary to carry out the Council's functions under this Executive Order and the Rehabilitation Act.
- g. Perform other duties as requested by the Governor and any other duties deemed necessary by the Council to meet its responsibilities under this Executive Order and the Rehabilitation Act. However, the Council can use its federal funds only to perform its federal duties as set forth in Section 705 of the Rehabilitation Act.

Section 6. Administration and Expenses

The state designated unit(s) may provide necessary administrative and staff support services to the Council as requested by the Council or the Governor. Such staff may not be assigned duties by the state designated unit(s) or any other agency or office of the State that would create a conflict of interest. As provided in Section 705 of the Rehabilitation Act, the Council may use resources provided under its resource plan to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services) and to pay compensation to a member of the Council, if the member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

Section 7. Effect and Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. This Executive Order shall remain in effect until July 24, 2016, pursuant to N.C. Gen. Stat. §147-16.2, or 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 twenty-fifth day of July in the year of our Lord two thousand and twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.



Beverly Eaves Perdue
Governor

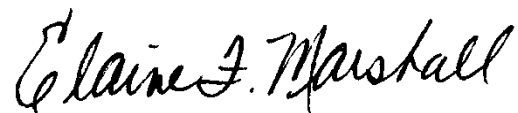
ATTEST:

Elaine F. Marshall
Secretary of State

STATE OF NORTH CAROLINA
DEPARTMENT OF STATE,
RALEIGH, AUGUST 3, 2012

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.

This publication includes Session Laws 2012-1 through 2012-203, Resolutions 2012-1 through 2012-12, and Executive Orders 113 to 123.

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

CORRECTED VERSION

(August 31, 2012)

**THE JOINT CONFERENCE COMMITTEE REPORT
ON THE
CONTINUATION, EXPANSION
AND CAPITAL BUDGETS**

(Revised Pursuant to S.L. 2012-142, Section 27.3)

S. L. 2012-142 (House Bill 950)

**North Carolina General Assembly
2012 Session**

July 24, 2012

**As amended by S.L. 2012-145 (Senate Bill 187); S. L. 2012-74 (House Bill 1015);
S.L. 2012-36 (House Bill 1025); and S.L. 2012-194 (Senate Bill 847).**

CORRECTED VERSION

(August 31, 2012)

[The report issued on July 24, 2012, pursuant to S.L. 2012-142, Section 27.3, is revised to correct a technical discrepancy between S.L. 2012-145, Modifications/2012 Appropriations Act, and the Conference Committee Report dated July 24, 2012 and posted to the General Assembly's website.]

For additional information, contact the General Assembly's Fiscal Research Division.

Pursuant to S.L. 2012-142, Section 27.3, this revision to the Joint Conference Committee Report adopted for House Bill 950 as presented, includes all modifications made to the 2012-2013 budget prior to sine die adjournment of the 2011 Regular Session.

Table of Contents

General Fund Availability Statement	1
Summary: General Fund Appropriations	2
Education	
Public Education	F 1
Community Colleges	F 3
UNC System	F 5
Education Special Funds	F 8
Health and Human Services	G 1
Natural and Economic Resources	
Agriculture and Consumer Services	H 1
Labor	H 4
Environment and Natural Resources	H 5
Clean Water Management Trust Fund	H 10
Wildlife Resources Commission	H 11
Commerce	H 12
Commerce – State Aid	H 14
NC Biotechnology Center	H 16
Rural Economic Development Center	H 17
Natural and Economic Resources Special Funds	H 18
Justice and Public Safety	
Public Safety	I 1
Justice	I 3
Judicial Indigent Defense	I 4
Judicial	I 5
Justice and Public Safety Special Funds	I 6
General Government	
Administration	J 1
Auditor	J 3
Cultural Resources	J 4
Cultural Resources – Roanoke Island Commission	J 6
General Assembly	J 7
Governor	J 8
Housing Finance Agency	J 9
Insurance	J 10
Insurance – Volunteer Safety Workers’ Compensation Fund	J 11
Lieutenant Governor	J 12
Office of Administrative Hearings	J 13
Revenue	J 14
Secretary of State	J 15
State Board of Elections	J 16
State Budget and Management	J 17
State Budget and Management – Special Appropriations	J 18
State Controller	J 19
Treasurer	J 20
Treasurer – Retirement for Fire and Rescue Squad Workers	J 21
Transportation	
Highway Fund	K 1
Highway Trust Fund	K 10
Turnpike Authority	K 12
Reserves, Debt Service, and Adjustments	L 1
Capital	M 1
Information Technology Services	N 1

General Fund Availability¹		FY 2012-13
1	Unappropriated Balance Remaining	41,232,325
2	Anticipated Overcollections from FY 2011-12	232,500,000
3	Anticipated Reversions for FY 2011-12	206,873,330
4	Net Supplemental Medicaid Approp (S.L. 2012-2)	(154,000,000)
5	Less Earmarkings of Year End Fund Balance	
6	Savings Reserve Account	(123,170,924)
7	Repairs and Renovations Reserve Account	(23,170,924)
8	Beginning Unreserved Fund Balance	180,263,807
9		
10	Revenue Based on Existing Tax Structure	18,931,200,000
11		
12	Non-Tax Revenue	
13	Investment Income	21,600,000
14	Judicial Fees	258,700,000
15	Disproportionate Share	115,000,000
16	Insurance	73,700,000
17	Other Non-tax Revenues	304,400,000
18	Highway Trust Fund Transfer	27,600,000
19	Highway Fund Transfer	212,280,000
20	Total Non-Tax Revenue	1,013,280,000
21		
22	Subtotal General Fund Availability	20,124,743,807
23		
24	Adjustments to Availability: 2012 Session	
25	E-Commerce Reserve Cash Balance	2,470,642
26	Charitable Licensing Receipts	979,752
27	One NC Fund Cash Balance	45,000,000
28	Insurance Regulatory Fund	166,613
29	Work Opportunity Tax Credit Extension (S.L. 2012-36)	(800,000)
30	Sales Tax Refund Application Extension for Passenger Air Carriers (S.L. 2012-74)	(3,150,000)
31	Sale of State Assets Receipts	(25,000,000)
32	Highway Fund Transfer	8,000,000
33	Teaching Fellows Trust Fund Cash Balance	3,265,000
34	Information Technology Internal Service Fund Cash Balance	14,000,000
35	Tax Deduction for Education Supplies (S.L. 2012-74)	(1,800,000)
36	Diversion of Golden LEAF Funds	6,750,000
37	National Mortgage Settlement	9,610,000
38		
39	Subtotal Adjustments to Availability:	59,492,007
40		
41	Revised Total General Fund Availability	20,184,235,814
42	Less General Fund Appropriations	20,184,235,814
43		
44	Balance Remaining	0

¹ General Fund Availability and Appropriations as revised by S.L. 2012-145 "Modifications/2012 Appropriations Act".

SUMMARY:

**GENERAL FUND
APPROPRIATIONS**

SUMMARY OF GENERAL FUND APPROPRIATIONS						
Fiscal Year 2012-13						
	2011 Approved Budget	Recurring Adjustments	Legislative Adjustments	Nonrecurring Adjustments	FTE Changes	Revised Appropriation 2012-13
Education						
Community Colleges	985,000,000	165,000	5,000,000	5,165,000	0.00	990,165,000
Public Education	7,444,122,100	62,430,967	0	62,430,967	11.00	7,506,553,067
University System	2,551,672,698	24,569,254	(460,783)	24,108,471	231.40	2,575,781,169
Total Education	10,980,794,798	87,165,221	4,539,217	91,704,438	242.40	11,072,499,236
Health and Human Services						
Central Management and Support	44,577,987	(7,852,058)	9,159,699	1,307,641	0.00	45,885,628
Aging and Adult Services	37,019,667	10,300,000	39,700,000	50,000,000	0.00	87,019,667
Blind and Deaf / Hard of Hearing Services	8,372,886	(168,336)	0	(168,336)	0.00	8,204,550
Child Development	266,102,933	0	(3,500,000)	(3,500,000)	0.00	262,602,933
Health Service Regulation	16,133,031	0	1,792,559	1,792,559	0.00	17,925,590
Medical Assistance	2,907,276,302	150,565,342	43,606,924	194,172,266	0.00	3,101,448,568
Mental Health, Dev. Disabilities and Sub. Abuse	710,712,232	5,030,019	(20,227,000)	(15,196,981)	431.10	695,515,251
NC Health Choice	83,717,865	(2,007,430)	0	(2,007,430)	0.00	81,710,435
Public Health	157,538,834	1,843,327	9,541,251	11,384,778	50.05	168,923,612
Social Services	186,183,068	(9,079,116)	0	(9,079,116)	0.00	177,103,952
Vocational Rehabilitation	37,528,128	0	0	0	0.00	37,528,128
Total Health and Human Services	4,455,162,933	148,631,948	80,073,433	228,705,381	481.15	4,683,868,314
Justice and Public Safety						
Public Safety	1,694,715,876	(27,231,135)	(5,000,000)	(32,231,135)	(48.08)	1,662,484,741
Judicial Department	435,141,107	(2,334,307)	0	(2,334,307)	44.00	432,806,800
Judicial - Indigent Defense	112,748,733	0	0	0	0.00	112,748,733
Justice	80,864,138	(3,667,504)	(3,000,000)	(6,667,504)	(21.00)	74,196,634
Total Justice and Public Safety	2,323,469,854	(33,232,946)	(8,000,000)	(41,232,946)	(25.08)	2,282,236,908

SUMMARY OF GENERAL FUND APPROPRIATIONS						
Fiscal Year 2012-13						
	2011 Approved Budget	Recurring Adjustments	Legislative Adjustments	Nonrecurring Adjustments	FTE Changes	Revised Appropriation 2012-13
			Net Changes	Net Changes		
Natural and Economic Resources						
Agriculture and Consumer Services	62,198,634	45,750,602	1,612,230	47,362,832	511.91	109,561,466
Commerce	33,250,463	(778,638)	8,250,000	7,471,362	1.00	40,721,825
Commerce - State Aid	30,151,984	(1,289,040)	1,071,500	(217,540)	0.00	29,934,444
Environment and Natural Resources	148,148,105	(44,373,084)	5,033,796	(39,339,288)	(416.92)	108,808,817
Clean Water Mgmt. Trust Fund	11,250,000	(11,250,000)	10,750,000	(500,000)	0.00	10,750,000
Labor	15,836,887	(316,738)	0	(316,738)	0.00	15,520,149
NC Biotechnology Center	17,551,710	(351,034)	0	(351,034)	0.00	17,200,676
Rural Economic Development Center	25,376,729	(3,757,535)	2,000,000	(1,757,535)	0.00	23,619,194
Wildlife Resources Commission	17,221,179	434,397	0	434,397	0.00	17,655,576
Total Natural and Economic Resources	360,985,691	(15,931,070)	28,717,526	12,786,456	95.99	373,772,147
General Government						
Administration	66,353,073	(444,861)	420,000	(24,861)	0.00	66,328,212
Auditor	10,676,035	(213,521)	0	(213,521)	0.00	10,462,514
Cultural Resources	61,697,001	(798,866)	500,000	(298,866)	(1.00)	61,398,135
Cultural Resources - Roanoke Island Comm.	1,203,491	(300,000)	0	(300,000)	0.00	903,491
General Assembly	50,104,208	3,889,367	(2,318,945)	1,570,422	31.60	51,674,630
Governor	4,741,157	(94,823)	0	(94,823)	0.00	4,646,334
Housing Finance Agency	9,673,051	(187,879)	(7,876,755)	(8,064,634)	0.00	1,608,417
Insurance	36,393,921	459,055	0	459,055	3.00	36,852,976
Insurance - Worker's Compensation Fund	2,623,654	0	0	0	0.00	2,623,654
Lieutenant Governor	695,324	(144,150)	0	(144,150)	0.00	551,174
Office of Administrative Hearings	4,142,258	0	0	0	0.00	4,142,258
Revenue	78,199,538	(1,563,991)	0	(1,563,991)	0.00	76,635,547
Secretary of State	10,654,563	766,661	0	766,661	9.43	11,421,224
State Board of Elections	5,126,603	(102,532)	0	(102,532)	0.00	5,024,071
State Budget and Management (OSBM)	5,848,663	(116,973)	0	(116,973)	0.00	5,731,690
OSBM - Special Appropriations	440,612	(391,612)	1,830,000	1,438,388	0.00	1,879,000
State Controller	28,368,957	233,015	1,347,397	1,580,412	(1.00)	29,949,369
Treasurer - Operations	6,621,750	0	0	0	0.00	6,621,750
Treasurer - Fire/Rescue Retirement	17,812,114	0	0	0	0.00	17,812,114
Total General Government	401,375,973	988,890	(6,098,303)	(5,109,413)	42.03	396,266,560

SUMMARY OF GENERAL FUND APPROPRIATIONS						
Fiscal Year 2012-13						
	2011 Approved Budget	Recurring Adjustments	Legislative Adjustments	Nonrecurring Adjustments	Net Changes	Revised Appropriation 2012-13
					FTE Changes	
Debt Service and Statewide Reserves						
Debt Service:						
Interest / Redemption	759,984,974	(52,904,635)	0	(52,904,635)	0.00	707,080,339
Federal Reimbursement	1,616,580	0	0	0	0.00	1,616,580
Subtotal Debt Service	761,601,354	(52,904,635)	0	(52,904,635)		708,696,719
Statewide Reserves:						
Contingency and Emergency Fund	5,000,000				0.00	5,000,000
Information Technology Fund	6,158,142				2.00	5,408,142
Job Development Investment Grants (JDIG)	27,400,000	0	(750,000)	(750,000)	0.00	20,900,000
State Retirement System Contributions	336,000,000	0	(6,500,000)	(6,500,000)	0.00	336,000,000
Judicial Retirement System Contribution	7,800,000	100,000	0	100,000	0.00	7,900,000
Firemen & Rescue Squad Workers Pension Fund	5,366,928	0	0	0	0.00	5,366,928
State Health Plan	102,151,104	0	0	0	0.00	102,151,104
Continuation/Justification Review Reserve	35,576,758	0	(35,576,758)	(35,576,758)	0.00	0
Compensation and Performance Pay Reserve	121,105,840	(121,105,840)			0.00	0
Reserve for Compensation Increases and Personnel Flexibility	0	159,984,426	0	159,984,426	0.00	159,984,426
Disability Income Plan of North Carolina	0	(8,688,000)	0	(8,688,000)	0.00	(8,688,000)
Automated Fraud Detection Development	7,000,000	0	0	0	0.00	7,000,000
Controller - Fraud Detection Development	500,000	0	0	0	0.00	500,000
One North Carolina Fund	0	9,000,000	0	9,000,000	0.00	9,000,000
VIPER Reserve	0	0	10,000,000	10,000,000	0.00	10,000,000
Subtotal Statewide Reserves	654,058,772	39,290,586	(32,826,758)	6,463,828		660,522,600
Total Reserves and Debt Service	1,415,660,126	(13,614,049)	(32,826,758)	(46,440,807)		1,369,219,319
Total General Fund for Operations	19,937,449,375	174,007,994	66,405,115	2,40,413,109	836.49	20,177,862,484

SUMMARY OF GENERAL FUND APPROPRIATIONS						
Fiscal Year 2012-13						
	2011 Approved Budget	Recurring Adjustments	Legislative Adjustments	Nonrecurring Adjustments	Net Changes	Revised Appropriation 2012-13
					FTE Changes	
Capital Improvements						
Water Resources Development Projects	0	0	5,000,000	5,000,000	0.00	5,000,000
Greensboro Readiness Center Renovation and Expansion	0	0	1,373,330	1,373,330	0.00	1,373,330
Total Capital Improvements	0	0	6,373,330	6,373,330	0	6,373,330
Total General Fund Budget	19,937,449,375	174,007,994	72,778,445	246,786,439	836.49	20,184,235,814

EDUCATION
Section F

Public Education

GENERAL FUND

Total Budget Approved 2011 Session

FY 12-13

\$7,444,122,100

Budget Changes

A. Technical Adjustments

1 Average Daily Membership (ADM) (\$6,423,088) R

Revises projected ADM for FY 2012-13 to reflect 2,084 fewer students than originally projected. The adjustment includes revisions to all position, dollar, and categorical allotments.

Total allotted ADM for FY 2012-13 is 1,492,793, an increase of 11,802 students over FY 2011-12.

2 Average Teacher Salary (\$85,670,329) R

Revises budgeted funding for certified personnel salaries based on actual salary data from December 2011. The adjustment does not reduce any salary paid to certified personnel, nor does it reduce the number of guaranteed State-funded teachers, administrators, or instructional support personnel.

B. Other Public School Funding Adjustments

3 LEA Adjustment Reduction \$126,943,661 R

Provides \$143.3 million to reduce the LEA Adjustment in FY 2012-13 by appropriating \$126.9 million and allocating an additional \$16.4 million from FY 2012-13 North Carolina Education Lottery net revenues.

The State Board of Education shall distribute the remainder of the LEA Adjustment to all LEAs and charter schools on the basis of ADM. LEAs and charter schools will then be responsible for identifying budget reductions in order to meet their share of the Adjustment.

4 Textbooks (\$4,364,277) R

Reduces funding for textbooks. \$22.8 million will remain in this allotment in FY 2012-13, \$615,188 below the 2011-12 budgeted amount.

D. Department of Public Instruction

5 Residential Schools	\$4,700,000	R
Restores funds to operate all three Residential Schools. None of the Residential Schools shall be closed. The Department of Public Instruction is strongly encouraged to maximize the use of all three facilities to generate receipts to further defray General Fund reductions to program operations.		
6 Governor's Schools	\$800,000	R
Provides funding for this program that supports summer enrichment activities for talented high school students.		
7 Liability Insurance for Public School Personnel	(\$555,000)	R
The actual cost of securing the statewide liability insurance policy in school year 2011-12 was less than the appropriation. This reduction better aligns the appropriation with projected costs.		

E. Excellent Public Schools Act

8 Excellent Public Schools Act	\$27,000,000	R
Provides funds to the Department of Public Instruction to carry out the elements of the Excellent Public Schools Act contained in Sections 7A.1 and 7A.6. S.L. 2012-145, Modifications/2012 Appropriations Act, authorizes the Department of Public Instruction to establish up to 11 positions for program implementation.		
	11.00	

Budget Changes	\$62,430,967	R
Total Position Changes	11.00	
Revised Total Budget	\$7,506,553,067	

Community Colleges

GENERAL FUND

	FY 12-13	
Total Budget Approved 2011 Session	\$985,000,000	
<hr/>		
Budget Changes		
A. Technical Adjustments		
9 Enrollment Growth Adjustments	(\$12,108,704)	R
<p>Adjusts funds for FY 2012-13 based on the estimated decline in community college enrollment.</p> <p>According to the FY 2011-12 spring enrollment census, enrollment has declined by 1.1% (2,663 full-time-equivalent students or FTE) from the FY 2011-12 budgeted enrollment of 251,017 and by 2.5% (6,335 FTE) from the current budgeted enrollment for FY 2012-13.</p> <p>Total requirements will be reduced by \$31,705,796. Of this reduction, \$19,597,092 is due to revised tuition and fee revenue estimates based on the new enrollment estimates.</p>		
10 NC Community College Grant Program Adjustment	\$165,000	R
<p>Makes a technical adjustment to the General Fund funding for the NC Community College Grant, a need-based scholarship program for community college students. This will be offset by an equal reduction in funding from the Escheat Fund.</p>		
B. Other Community College Funding Adjustments		
11 Management Flexibility Reduction	\$4,310,863	R
<p>Provides funding to restore 5% of the management flexibility reduction. The remaining amount in FY 2012-13 will be \$83,233,302. The State Board of Community Colleges shall distribute the remaining reduction accounting for the unique needs of each college.</p>		
12 Enhance Math Instruction	\$4,210,790	R
<p>Funds college-level mathematics courses at the same level as science, engineering, and technology, providing colleges funding to enhance math instruction.</p>		
13 Eliminate Fee Increase	\$664,509	R
<p>Eliminates the \$5 fee increase per continuing education course that was scheduled to take effect in FY 2012-13.</p>		
Community Colleges		Page F - 3

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

14 Multi-campus College Funding	\$2,922,542	R
<p>Provides additional funds for multi-campus colleges (MCCs). Additionally, the State Board of Community Colleges shall eliminate the categorical allotment for MCCs and instead provide an additional base allotment through the Institutional and Academic Support formula to colleges with approved MCCs. The allotment shall be based on the number of FTE served at each campus.</p>		
15 Textile Technology Center	(\$487,436)	R
<p>Reduces the categorical allotment to the Textile Technology Center at Gaston College. These funds will instead be appropriated under the MCC funding formula. Total funding remaining for the Textile Technology Center will be \$353,952.</p>		
16 Additional Multi-campus College	\$487,436	R
<p>Provides funds for the addition of the Kimbrell Campus at Gaston College to the MCC funding formula.</p>		
17 NC Back-to-Work: Investing in Our Workforce	\$5,000,000	NR
<p>Provides funding for a retraining program to prepare North Carolinians facing long-term unemployment for new careers, described further in Section 8.10A. This program will provide students with job training, employability skills, and industry-recognized, third-party credentials. Participating colleges will be jointly recommended by the Department of Commerce and the Community Colleges System Office.</p>		
<hr/>		
Budget Changes	\$165,000	R
	\$5,000,000	NR
Total Position Changes		
Revised Total Budget	\$990,165,000	
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	FY 12-13
Total Budget Approved 2011 Session	\$2,551,672,698

Budget Changes

A. Technical Adjustments

18 Enrollment Adjustments	\$1,376,061	R
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Funds projected enrollment growth for FY 2012-13 at the University of North Carolina. This \$1.4 million net increase consists of projected enrollment increases of \$17,434,805 and a reduction of \$16,058,744 to adjust for campuses whose enrollment is projected to be less than what is currently budgeted. The Board of Governors shall determine the allocations by campus.

B. Reserves for New and Renovated Facilities

19 Building Reserves	\$7,115,285	R
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Provides funds to operate new or renovated UNC buildings that will be completed in FY 2012-13. Specifically, funds are for the housekeeping, maintenance, and security requirements for the added building square footage.

Also provides \$313,000 to Appalachian State University to fund lease payments for space for the Human Performance Lab at the North Carolina Research Campus (Kannapolis).

20 NCSU Centennial Campus Library	\$1,000,000	R
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Provides operating and program funds for a new library that will open in FY 2012-13 on NCSU's Centennial Campus. The library will serve as a second "main library" for NCSU to help ease overcrowding in the D.H. Hill Library on the school's North Campus. The appropriation includes funds for 13.5 additional FTE.

21 Joint School of Nanoscience & Nanoengineering Operational and Program Funds	\$2,000,000	R
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Funds the NC A&T/UNC-G Joint School of Nanoscience and Nanoengineering located in the Gateway University Research Park in Greensboro. The program is designed to conduct research in areas such as drug design and delivery, nanobioengineering, and genetic screening.

Specifically, the budget provides an additional \$1 million in recurring funding and converts an existing \$1 million nonrecurring appropriation to recurring.

C. Other UNC Funding Adjustments

<p>22 Faculty Recruiting and Retention Fund Provides funding for the Faculty Recruiting and Retention Fund, which the General Assembly created in S.L. 2006-66, Sec. 22.12A, to offer salary increases to recruit and retain faculty members. This appropriation increases the Fund's total recurring budget to \$13 million.</p>	<p>\$3,000,000</p>	<p>R</p>
<p>23 UNC School of Medicine for Medical Education Reduces the State appropriation to the UNC School of Medicine for Medical Education by \$3 million. After this reduction, \$15 million will remain in the FY 2012-13 budget.</p>	<p>(\$3,000,000)</p>	<p>R</p>
<p>24 Management Flexibility Reduction Eliminates the budgeted increase to the management flexibility reduction for FY 2012-13. The University of North Carolina Board of Governors shall allocate this reduction according the terms of S.L. 2011-145, Sec. 9.6.</p>	<p>\$9,184,767</p>	<p>R</p>
<p>25 Center for Public Television Restores partial funding for the Center for Public Television, which was subject to Continuation Review (CR) in FY 2011-12. Of the \$10.6 million cut due to the CR, a total of \$9.8 million is restored for FY 2012-13 (\$9.1 million recurring and \$750,000 nonrecurring).</p>	<p>\$9,058,141 \$750,000 116.00</p>	<p>R NR</p>

D. Need-based Student Financial Aid

<p>26 UNC Need-based Financial Aid Program Adjusts the General Fund appropriation for the UNC Need-based Financial Aid program to account for corresponding increases in funding from the Escheat Fund and the Lottery Fund. In addition to the increases described above, an additional \$25.6 million is appropriated for this program from the Lottery Fund in Section 5.3. S.L. 2012-145, Modifications/2012 Appropriations Act amends Sec. 5.3 to appropriate an additional \$6.5 million, for a revised total of \$32.1 million. Total funding for the UNC Need-based Financial Aid program from all sources will be \$147,635,342, which is \$25.2 million more than originally budgeted.</p>	<p>(\$5,165,000) (\$6,974,141)</p>	<p>R NR</p>
<p>27 NC Need-Based Scholarship Increases funding for the NC Need-Based Scholarship for students attending private institutions of higher education by \$4.5 million in FY 2012-13. Total funding for the program in FY 2012-13 will be \$86,351,588.</p>	<p>\$4,500,000</p>	<p>NR</p>

Budget Changes	\$24,569,254	R
	(\$460,783)	NR
Total Position Changes	231.40	
Revised Total Budget	\$2,575,781,169	

DPI - Trust Special

Budget Code: 63501

	FY 2012-13
Beginning Unreserved Fund Balance	\$4,286,450
Total Budget Approved 2011 Session	
Requirements	\$10,461,782
Receipts	\$10,461,782
Positions	0.00

Legislative Changes

Requirements:

Teaching Fellows Trust Fund	\$0 R
Transfers \$3,265,000 from the cash balance of the Teaching Fellows Trust Fund to the General Fund for general availability.	\$3,265,000 NR
	0.00
Subtotal Legislative Changes	\$0 R
	\$3,265,000 NR
	0.00

Receipts:

Teaching Fellows Trust Fund	\$0 R
	\$0 NR
Subtotal Legislative Changes	\$0 R
	\$0 NR

Revised Total Requirements	\$13,726,782
Revised Total Receipts	\$10,461,782
Change in Fund Balance	(\$3,265,000)
Total Positions	0.00

Unappropriated Balance Remaining	\$1,021,450
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**HEALTH
&
HUMAN SERVICES
Section G**

Health and Human Services

GENERAL FUND

Total Budget Approved 2011 Session FY 12-13
\$4,455,162,933

Budget Changes

(1.0) Division of Medical Assistance

- 1 Medicaid Rebase** \$212,476,461 R
 Provides additional funds for the Medicaid program based upon projected growth in number of people eligible for Medicaid and growth in consumption.
- 2 Federal Repayment of 2009 Federal Overdraw of Funds** \$31,300,776 NR
 Provides funding to repay the federal government due to an erroneous federal draw down for the Medicaid program. FY 2012-13 will be the final year in which quarterly payments are due and satisfies this obligation to the federal government.
- 3 Federal Drug Rebate Payment** \$24,606,148 NR
 Provides funding to pay the amount owed to the federal government as a result of a 2010 federal policy change related to drug rebates.
- 4 DHHS Savings Through CCNC** (\$59,000,000) R
 Reduces funds based upon projected savings to be achieved by Community Care North Carolina (CCNC) and its networks in the management of health care for Medicaid recipients.
- 5 Managed Care Organizations Schedule Delays** \$1,700,000 NR
 Provides necessary funds due to the delayed state-wide expansion of the Medicaid behavioral health 1915 b/c waiver sites (S.L. 2011-264). The loss is based upon changes to the implementation schedule as reported by the Division of Medical Assistance. In FY12-13, Local Management Entities (LMEs) will convert to Managed Care Organizations (MCOs) and will receive capitated Medicaid funding to purchase mental health, developmental disabilities, and substance abuse services for eligible persons living within the LME coverage areas.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

<p>6 Fraud, Waste, and Abuse Detection and Prevention Reduces funding available in the Medicaid program in anticipation of savings through the efforts of detecting fraud and waste among Medicaid providers and recipients. There are two information technology efforts underway to combat fraud, waste, and abuse through the Division's Fraud and Abuse Management System.</p>	<p>(\$3,807,519) R</p>
<p>7 Restructure Fee for Service Payments Revises payment structures for various services provided within the Medicaid program. These changes will result in bundling of payments for services based upon a period of time or a diagnosis instead of fee-for-service.</p>	<p>(\$1,976,636) R</p>
<p>8 Pharmacy Improvements Creates savings through increased usage by facilities who utilize the 340B pricing program for the purchase of hemophilia drugs. In addition, the Department shall increase the use of prior authorization and lower dispensing fees to achieve savings within the Medicaid program.</p>	<p>(\$6,671,507) R</p>
<p>9 CHIPRA Bonus Reduces Medicaid funds in anticipation of receiving the FY 2012-13 federal Children's Health Insurance Program Reauthorization Act (CHIPRA) bonus for Health Choice enrollment growth.</p>	<p>(\$14,000,000) NR</p>
<p>10 CCNC Home Health Initiatives Budgets savings anticipated from the implementation of a CCNC initiative that will manage home health care to ensure the provision of medically appropriate services.</p>	<p>(\$4,455,457) R</p>
<p>11 Medicaid Contracts Provides funding for Medicaid contracts, including claims processing, prior authorization, and various studies.</p>	<p>\$5,000,000 R</p>
<p>12 Medicaid Settlements Provides funding for Medicaid cost settlements with various providers and fraud, waste, and abuse prevention initiatives.</p>	<p>\$15,000,000 R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

<p>13 Personal Care Services (PCS) Budgets reduced Medicaid cost as a result of changing the eligibility criteria for personal care services (PCS) to needing assistance with two or more activities of daily living (ADL).</p>	<p>(\$6,000,000) R</p>
<p>(2.0) Division of Child Development and Early Education</p>	
<p>14 Block Grant Funding Provides federal block grant funds for the Smart Start Program. This continues similar actions taken by the Office of State Budget and Management during FY 2011-12 in which \$4 million of Smart Start funds were replaced by \$4 million of Block Grant funds.</p>	<p>(\$7,000,000) NR</p>
<p>15 Literacy Pilot, Development Consultants, and Rural Partnership Assistance Provides funding for early literacy initiatives to be administered by North Carolina Partnership for Children. These initiatives include: the Reach Out and Read program, Raising a Reader, parenting programs and lending libraries. Funds shall be used to enhance technical assistance to local partnerships in the areas of grant writing and fund-raising activities. Funding shall also be used to enhance local rural partnerships' funds. These funds shall not be expended prior to January 1, 2013 and only after OSBM certification that the funding is not needed for the Medicaid Program.</p>	<p>\$3,500,000 NR</p>
<p>(3.0) NC Health Choice</p>	
<p>16 Health Choice Costs Adjusts Health Choice budget to expected expenditure level for FY 2012-13. This adjustment is based upon the projected rate of consumption and mix of services. This adjustment should not impact the open-enrollment policy for the program. There are approximately 148,000 children enrolled in Health Choice and the forecast projects 153,000 for FY 2012-13.</p>	<p>(\$1,919,704) R</p>
<p>17 Fee for Service Payments Reduces Health Choice budget to reflect expected savings that will result from fee for service payments which will be converted to all-inclusive or fixed rates for selected services.</p>	<p>(\$21,959) R</p>
<p>18 Pharmacy Improvements Reduces the Health Choice budget to reflect savings that will be achieved through the implementation of a specialty pharmacy for hemophilia drugs.</p>	<p>(\$17,936) R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

<p>19 CCNC Home Health Services Initiative Budgets savings anticipated from the implementation of a CCNC initiative that will manage home health care to ensure the provision of medically appropriate services.</p>	<p>(\$47,831) R</p>
<p>(4.0) Division of Health Service Regulation</p>	
<p>20 Nursing Home Licensure and Certification Provides funds to replace lost receipts from civil fines and penalties assessed against nursing homes. Funds will be used for DHSR Nursing Home licensure staff positions.</p>	<p>\$1,792,559 NR</p>
<p>(5.0) Division of Central Management and Support</p>	
<p>21 Administrative Efficiencies Reduces DHHS budget due to elimination of seat management funds, the elimination of positions vacant two years or more, reorganizations, and expired contracts.</p>	<p>(\$2,700,000) R</p>
<p>22 Budget DOA Cost Allocation Receipts Replaces state funds due to the implication of a cost allocation plan for the Office of Property Construction and the Office of Public Affairs.</p>	<p>(\$544,000) R</p>
<p>23 DIRM Contracts Restores recurring State General Fund Appropriations for the Division of Information Resources Management (DIRM) for various contracts for Department-wide IT services. S.L. 2011-145 eliminated the recurring funds for this purpose pending the findings and recommendations from a continuation review.</p>	<p>\$5,599,390 R</p>
<p>24 ITS Refunds Reduces State General Fund Appropriation in anticipation of a reduction in costs for Information Technology Services (ITS). This reduction is based upon current year's charges to DHHS by ITS.</p>	<p>(\$1,047,749) R</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

25 Non-State Entity Pass-Through Funds	(\$9,159,699)	R
Replaces \$9,159,699 in recurring special appropriation (pass-through) funds for the following non-state entities with non-recurring funds:	\$9,159,699	NR
<p>North Carolina Senior Games, Inc. - \$121,481 ARC of North Carolina - \$305,598 ARC of North Carolina – Wilmington - \$51,048 Autism Society of North Carolina - \$2,941,818 The Mariposa School for Children with Autism - \$339,879 Easter Seals UCP of North Carolina - \$76,792 Easter Seals UCP of North Carolina and Virginia - \$1,542,647 ABC of North Carolina Child Development Center - \$366,703 Residential Services, Inc. - \$ 246,424 Oxford House, Inc. - \$200,000 Brain Injury Association of North Carolina - \$225,223 Food Bank of Central and Eastern North Carolina, Inc. - \$333,334 Food Bank of the Albemarle - \$333,334 Manna Food Bank - \$333,334 Second Harvest Food Bank of Metrolina, Inc - \$333,334 Second Harvest Food Bank of Northwest North Carolina, Inc. - \$333,332 Prevent Blindness NC - \$308,163 Second Harvest Food Bank of Southeast NC \$333,332</p>		
(6.0) Division of Social Services		
26 Adoption Vendor Payments	(\$2,025,649)	R
Reduces funds for adoption vendor services through efficiencies gained by better program oversight by the Division of Social Services.		
27 FMAP IV-E Child Welfare Services	(\$379,116)	R
Increases State General Funds due to changes in the Federal Medical Assistance Percentage (FMAP). The change from 65.28% to 65.51% goes into effect in October of 2012.		
28 Foster Care Efficiencies	(\$6,674,351)	R
Reduces funds for the Foster Care Program due to a change in the case mix of foster care children in the care of the Division of Social Services.		

(7.0) Division of Aging and Adult Services

29 Transition to Community Living

\$10,300,000 **R**

Establishes a fund, Transitions to Community Living Fund, to facilitate implementation of the plan to transition individuals with severe mental illness to community living arrangements, including establishing a rental assistance program.

30 Temporary Short-term Assistance

\$39,700,000 **NR**

Establishes a fund for the implementation of the State's plan to provide temporary, short-term assistance to adult care and group homes as they transition to the State's Transitions to Community Living Plan. These funds will be used to pay monthly stipends to adult care and group homes for residents who are no longer eligible to receive Medicaid-reimbursable personal care services but for whom a community placement has not yet been arranged.

(8.0) Divisions of Services for the Blind and Services for the Deaf and Hard of Hearing

31 Budget Increased Telecommunications Receipts

(\$168,336) **R**

Replaces state funds for the administration of the Division of Services for the Deaf and Hard of Hearing with receipts from the Telecommunications Relay Fund.

(10.0) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services

32 Community Services Funding

(\$20,000,000) **NR**

Continues non-recurring reduction to local management entities' (LME) community services funding for FY 2012-13. Approximately \$345 million in State general funds remain in the budget for LMEs to purchase community-based services.

33 Federal Block Grant Funding

(\$227,000) **NR**

Provides federal Substance Abuse Prevention and Treatment Block Grant funds for Division of Mental Health's administrative costs.

34 Three-way Contracts

\$9,000,000 **R**

Provides funding to increase the number of community hospital beds available to LMEs under the State-administered three-way contract from 141 to 186. Funds may not be expended prior to January 1, 2013 and only after OSBM certification that the funding is not needed for the Medicaid Program.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

<p>35 Local Management Entities (LME) Reduces the administrative budget for LMEs in anticipation of the savings to be achieved from the transition to managed care organizations (MCO). LME administrative funds will be provided as part of the capitation contract rather than on a per capita basis.</p>	<p>(\$8,497,935) R</p>
<p>36 Cherry Hospital Provides funding to support the expanded bed capacity at the new Cherry Hospital, which is scheduled to begin operating in April 2013. The new hospital will have 314 beds, an increase of 124 beds.</p>	<p>\$3,472,954 R 373.10</p>
<p>37 Broughton Hospital Provides funding for 19 additional psychiatric care beds at Broughton Hospital. Funds may not be expended prior to January 1, 2013 and only after OSBM certification that the funding is not needed for the Medicaid Program.</p>	<p>\$3,513,000 R 58.00</p>
<p>38 Drug Treatment Courts Eliminates pass-through funding provided for drug treatment court services. S.L. 2011-145 eliminated funds budgeted to the Judicial Department for these courts.</p>	<p>(\$2,258,000) R</p>
<p>39 Mental Health Association, Inc. Eliminates pass-through funding provided in 2008 for the Mental Health Association, Inc. This organization lost its accreditation in 2010 and no longer operates.</p>	<p>(\$200,000) R</p>
<p>(11.0) Division of Public Health</p>	
<p>40 CheckMeds Provides funds to continue support for the CheckMeds Program which provides counseling on the correct use of prescription drugs.</p>	<p>\$1,695,379 NR</p>
<p>41 Medication Assistance Program Provides funds to continue support of the Medication Assistance Program which provides free prescription drugs to low-income, uninsured persons.</p>	<p>\$1,704,033 NR</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

<p>42 Roanoke-Chowan Telehealth Network Provides funds to continue support for the Roanoke Chowan Telehealth Network. The Network delivers remote monitoring and chronic disease care management services to persons living in a medically underserved region of the State.</p>	<p>\$300,000</p>	<p>NR</p>
<p>43 County Health Departments Provides funding to county health departments to start or continue community health and wellness initiatives that promote healthy behaviors, e.g. smoking cessation, nutrition, physical activities, disease prevention, school nurse positions, etc. This funding cannot be used to supplant existing funds being used for this purpose. Funds shall not be expended prior to January 1, 2013 and only after OSBM certification that the funding is not needed for the Medicaid Program.</p>	<p>\$4,894,727</p>	<p>NR</p>
<p>44 Environmental Health Section Provides for a technical correction reflecting the Type I transfer of the Division of Environmental Health from the Department of Natural and Economic Resources to the Department of Health and Human Services, Division of Public Health. This transfer was enacted during the 2011 Legislative Session via SL 2011-145. S.L. 2011-145, Sec. 13.3</p>	<p>\$3,700,675</p> <p>35.05</p>	<p>R</p>
<p>45 Maternity Homes Increases State General Fund Appropriations to replace the loss of federal funds formerly provided for maternity homes.</p>	<p>\$375,000</p>	<p>NR</p>
<p>46 Early Intervention Adjusts the budget for early intervention services based upon actual expenditures.</p>	<p>(\$2,500,000)</p>	<p>R</p>
<p>47 Services for Rape Victims Replaces lost federal block grant funding with State General Fund Appropriations for services to rape victims.</p>	<p>\$197,112</p>	<p>NR</p>
<p>48 High Risk Maternity Clinic Provides funds for the East Carolina University High Risk Maternity Clinic.</p>	<p>\$375,000</p>	<p>NR</p>

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

49 Health Department Accreditation	(\$300,000)	R
Eliminates funding for the UNC Institute for Public Health contract to provide state-based accreditation. This contract duplicates a national program available to county health departments for this purpose.		
50 State Public Health Lab and Office of Chief Medical Examiner	\$1,155,666	R
Provides funds for new positions and operating costs for the new State Public Health Laboratory and the Chief Medical Examiner's Office which will begin operating in FY 2012-13.		
	12.00	
51 Environmental Health Regional Office Positions	\$221,109	R
Restores funding for transferred positions formerly located in DENR regional offices. This funding was made non-recurring in FY 2011-12 pending a Justification Review. Due to the FY 2011-12 transfer of the Division of Environmental Health to the Division of Public Health in the Department of Health & Human Services (DHHS), the restored salaries and benefits of positions formerly located in DENR regional offices are transferred from DENR to DHHS as follows:		
60034273	Env Health Reg Spec	\$69,922
60034303	Env Health Reg Spec	\$67,812
60034278	Soil Scientist	\$83,375
		3.00
52 Healthy Start Foundation	(\$433,923)	R
Eliminates pass-through funding provided to the Healthy Start Foundation. These funds are not used to provide direct services.		

Budget Changes	\$148,631,948	R
	\$80,073,433	NR
Total Position Changes	481.15	
Revised Total Budget	\$4,683,868,314	

**NATURAL
&
ECONOMIC
RESOURCES
Section H**

Agriculture and Consumer Services

GENERAL FUND

		FY 12-13
Total Budget Approved 2011 Session		\$62,198,634
<hr/>		
Budget Changes		
(1.0) Technical Correction		
1 NC Forest Service		\$36,462,776 R
Provides for a technical correction showing the transfer of the NC Forest Service from the Department of Environment & Natural Resources to the Department of Agriculture & Consumer Services. The Division was transferred in FY 2011-12 after certification of the budget. This item should not be certified in the FY 2012-13 budget as it will be certified through a budget revision.		452.16
2 Division of Soil & Water Conservation		\$10,323,455 R
Provides for a technical correction showing the transfer of the Division of Soil & Water Conservation from the Department of Environment & Natural Resources to the Department of Agriculture & Consumer Services. The Division was transferred in FY 2011-12 after certification of the budget. This item should not be certified in the FY 2012-13 budget as it will be certified through a budget revision.		33.00
3 Four Central Office Positions		\$178,410 R
Provides for a technical correction showing the transfer of 4.0 central office positions from the Department of Environment & Natural Resources to the Department of Agriculture & Consumer Services. The Division was transferred in FY 2011-12 after certification of the budget. This item should not be certified in the FY 2012-13 budget as it will be certified through a budget revision.		4.00
(2.0) Reserves & Transfers		
4 Ag. Water Resources Assistance Program		
Provides funds for the Agricultural Water Resources Assistance program.		\$500,000 NR
Department-wide		
5 Management Flexibility Reduction		(\$2,183,266) R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.		

Markets

6 Grape Growers Council

Transfers the Grape Growers Council from the Department of Commerce to the Department of Agriculture & Consumer Services and provides nonrecurring funding to support the program.

\$500,000 NR
1.00

This item was amended by S.L. 2012-145, Modifications/2012 Appropriations Act, to transfer position #60080945 from the Department of Commerce to the Department of Agriculture & Consumer Services (DACCS). This position is to be supported by the nonrecurring funds appropriated to the Department for the Grape Growers Council.

7 Southeastern NC Agricultural Center and Farmers Market

Restores funding for the Southeastern NC Agricultural Center and Farmers Market for one year. This program was subject to Justification Review in FY 2011-12. A corresponding special provision directs the Department to conduct a study evaluating alternative operating models for the facility, including permanent closure, contracting out the facility, or leasing or donating the facility. This report is to be completed by the Department and submitted to the General Assembly by February 1, 2013.

\$362,230 NR
6.00

8 Ag Marketing Funds

Provides funding for Got to Be NC and International Marketing. The funds are to be divided equally between these two programs.

\$250,000 NR

NC Forest Service

9 Young Offenders BRIDGE Program

Transfers the portion of the Young Offenders Forest Conservation Program (aka BRIDGE) that is currently funded by the Department of Public Safety to the Department of Agriculture and Consumer Services. BRIDGE program participants are all young offenders from the Western Youth Institute and assist the NC Forest Service with firefighting and other forest management efforts.

\$318,208 R
7.00

Soil & Water Conservation

10 Restore Regional Office Positions - DACS

\$651,019 R

Restores funding for transferred positions formerly located in DENR regional offices. This funding was made non-recurring in FY 2011-12 pending a Justification Review. Due to the FY 2011-12 transfers of the Division of Soil & Water Conservation to the Department of Agriculture & Consumer Services (DACs), the restored salaries and benefits of positions formerly located in DENR regional offices will need to be transferred from DENR to DACs as follows:

8.75

60032345	Engineer	\$74,775	1.00 FTE
60032360	Engineer	\$64,270	1.00 FTE
60032328	Env Prog Super III	\$79,165	1.00 FTE
60032369	Env Specialist	\$55,581	1.00 FTE
60090071	Paralegal II	\$47,567	0.75 FTE
60032346	Engineer	\$69,056	1.00 FTE
60032323	Soil Scientist	\$79,106	1.00 FTE
60032372	Env Specialist	\$53,060	1.00 FTE
60032348	Engineer	\$66,059	1.00 FTE

This item was amended by S.L. 2012-145, Modifications/2012 Appropriations Act, to reduce the number of FTE transferred from DENR to DACs from 9.75 to 8.75. Position #60032341 was eliminated in FY 2011-12 and thus cannot be transferred.

Budget Changes	\$45,750,602	R
	\$1,612,230	NR
Total Position Changes	511.91	
Revised Total Budget	\$109,561,466	

Labor

GENERAL FUND

	FY 12-13
Total Budget Approved 2011 Session	\$15,836,887
<hr/>	
Budget Changes	
Department-wide	
11 Management Flexibility Reduction	(\$316,738) R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.	
<hr/>	
Budget Changes	(\$316,738) R
Total Position Changes	
Revised Total Budget	\$15,520,149

Environment & Natural Resources

GENERAL FUND

Total Budget Approved 2011 Session **FY 12-13**
\$148,148,105

Budget Changes

(1.0) Technical Correction

12 NC Forest Service (\$36,462,776) R

Provides for a technical correction showing the transfer of the NC Forest Service from the Department of Environment & Natural Resources to the Department of Agriculture & Consumer Services. The Division was transferred in FY 2011-12 after certification of the budget. This item should not be certified in the FY 2012-13 budget as it will be certified through a budget revision. -452.16

13 Division of Soil & Water Conservation (\$10,323,455) R

Provides for a technical correction showing the transfer of the Division of Soil & Water Conservation from the Department of Environment & Natural Resources to the Department of Agriculture & Consumer Services. The Division was transferred in FY 2011-12 after certification of the budget. This item should not be certified in the FY 2012-13 budget as it will be certified through a budget revision. -33.00

14 Four Central Office Positions (\$178,410) R

Provides for a technical correction showing the transfer of 4.0 central office positions from the Department of Environment & Natural Resources to the Department of Agriculture & Consumer Services. The Division was transferred in FY 2011-12 after certification of the budget. This item should not be certified in the FY 2012-13 budget as it will be certified through a budget revision. -4.00

15 Division of Environmental Health (\$3,700,675) R

Provides for a technical correction showing the transfer of the Division of Environmental Health from the Department of Environment & Natural Resources to the Department of Health & Human Services. The Division was transferred in FY 2011-12 after certification of the budget. This item should not be certified in the FY 2012-13 budget as it will be certified through a budget revision. -35.05

(1.0) Department-wide

16 Management Flexibility Reduction (\$2,216,074) R

Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.

(1.0) Reserves & Transfers

17 Clean Water State Revolving Fund

Directs the Department to use \$5,101,400 of its loan origination fee fund to provide the 20% State match needed to draw down \$25,507,000, the maximum available federal funds for the Clean Water State Revolving Fund for FY 2012-13. The Department needs permission from the US EPA to use these funds for FY 2012-13 only.

18 Drinking Water State Revolving Fund

Directs the Department to use funds from the Drinking Water Reserve to provide the 20% State match needed to draw down the maximum available federal funds for the Drinking Water State Revolving Fund. The match amount of \$4,939,600 for Federal Fiscal Year 2011-12 will allow the State to draw down \$24,698,000 in federal funds, and the match amount of \$4,707,400 for the Federal Fiscal Year 2012-13 will allow the State to draw down \$23,537,000 in federal funds. The EPA encourages states to have their match amounts available prior to the beginning of the Federal Fiscal Year so the amount of the State grant can be encumbered in the EPA budget. The Department is currently a year in arrears obtaining these federal grants from EPA, and this will allow the Department to have its match amounts available prior to the beginning of future Federal Fiscal Years.

19 Eliminate Operating Reserve

(\$2,309,998) R

Eliminates the operating reserves for the Green Square Office Building and the Nature Research Center building for FY 2012-13. These buildings' operating expenses shall be paid by the Department of Administration beginning in FY 2012-13.

20 Noncommercial Leaking Underground Storage Tank (LUST) Fund

\$4,883,796 NR

Provides \$4,883,796 to the Noncommercial Leaking Underground Storage Tank (LUST) Fund.

(2.0) Land Resources

21 State Boundary Survey Completion

\$50,000 NR

Provides nonrecurring funding to complete the state boundary survey project between North Carolina and South Carolina.

22 Mining and Energy Commission

\$250,000 R

Provides \$250,000 to support the salaries and benefits of 3.0 positions to staff the Mining and Energy Commission per Senate Bill 820, should that bill become law.

3.00

(2.0) Regional Offices

26 Restore Regional Offices

\$12,624,378 R

Restores funding for the regional offices. This funding was made non-recurring in FY 2011-12 pending a Justification Review. Due to the FY 2011-12 transfers of the Division of Soil & Water Conservation to the Department of Agriculture & Consumer Services (DACS) and the Division of Environmental Health to the Division of Public Health in the Department of Health & Human Services (DHHS), the restored salaries and benefits of positions formerly located in DENR regional offices will need to be transferred from DENR to those Departments as follows:

134.96

Division of Public Health (DHHS)	\$282,412	3.00 FTE
Division of Soil & Water Conservation (DACS)	\$651,019	8.75 FTE

This item was amended by S.L. 2012-145, Modifications/2012 Appropriations Act, to correct the transfer amount for DHHS from \$221,109 to \$282,412 and to reduce the number of FTE transferred from DENR to DACS from 9.75 to 8.75. Position #60032341 was eliminated in FY 2011-12 and thus cannot be transferred.

27 Restore Regional Office Positions - DHHS

(\$221,109) R

Restores funding for transferred positions formerly located in DENR regional offices. This funding was made non-recurring in FY 2011-12 pending a Justification Review. Due to the FY 2011-12 transfer of the Division of Environmental Health to the Division of Public Health in the Department of Health & Human Services (DHHS), the restored salaries and benefits of positions formerly located in DENR regional offices will need to be transferred from DENR to DHHS as follows:

-3.00

60034273	Env Health Reg Spec	\$69,922	1.00 FTE
60034303	Env Health Reg Spec	\$67,812	1.00 FTE
60034278	Soil Scientist	\$83,375	1.00 FTE

28 Restore Regional Office Positions - DACS

(\$651,019) R

Restores funding for transferred positions formerly located in DENR regional offices. This funding was made non-recurring in FY 2011-12 pending a Justification Review. Due to the FY 2011-12 transfers of the Division of Soil & Water Conservation to the Department of Agriculture & Consumer Services (DACs), the restored salaries and benefits of positions formerly located in DENR regional offices will need to be transferred from DENR to DACS as follows:

-8.75

60032345	Engineer	\$74,775	1.00 FTE
60032360	Engineer	\$64,270	1.00 FTE
60032328	Env Prog Super III	\$79,165	1.00 FTE
60032369	Env Specialist	\$55,581	1.00 FTE
60090071	Paralegal II	\$47,567	0.75 FTE
60032346	Engineer	\$69,056	1.00 FTE
60032323	Soil Scientist	\$79,106	1.00 FTE
60032372	Env Specialist	\$53,060	1.00 FTE
60032348	Engineer	\$66,059	1.00 FTE

This item was amended by S.L. 2012-145, Modifications/2012 Appropriations Act, to reduce the number of FTE transferred from DENR to DACS from 9.75 to 8.75. Position #60032341 was eliminated in FY 2011-12 and thus cannot be transferred.

29 Restore Regional Office Positions - DPS

(\$136,949) R

Restores funding for transferred positions formerly located in DENR regional offices. This funding was made non-recurring in FY 2011-12 pending a Justification Review. Due to the FY 2012-13 transfer of the Division of Land Resources' Geodetic Survey Section to the Emergency Management Section of the Division of Law Enforcement in the Department of Public Safety (DPS), the restored salaries and benefits of positions formerly located in DENR regional offices will need to be transferred from DENR to DPS as follows:

-2.00

60032391	Engineering/Architectural Supervisor	\$77,859	1.00 FTE
60032397	Engineering/Architectural Technician	\$59,090	1.00 FTE

(3.0) Marine Fisheries

30 Oyster Sanctuary Funds

Provides nonrecurring funding for the Oyster Sanctuary Program.

\$100,000 NR

Budget Changes	(\$44,373,084)	R
	\$5,033,796	NR
Total Position Changes	-416.92	
Revised Total Budget	\$108,808,817	

DENR-Clean Water Management Trust Fund

GENERAL FUND

	FY 12-13	
Total Budget Approved 2011 Session	\$11,250,000	
Budget Changes		
Department-wide		
31 Operating Funds	(\$11,250,000)	R
Eliminates recurring funding for the Clean Water Management Trust Fund and replaces it with nonrecurring funding for FY 2012-13.	\$10,750,000	NR
Budget Changes		
	(\$11,250,000)	R
	\$10,750,000	NR
Total Position Changes		
Revised Total Budget	\$10,750,000	

Wildlife Resources Commission

GENERAL FUND

		FY 12-13
Total Budget Approved 2011 Session		\$17,221,179
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Budget Changes		
Commission-wide		
32 Management Flexibility Reduction	(\$344,424)	R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.		
Conservation Education		
33 Continuation Review	\$778,821	R
Restores the \$778,821 appropriation for the Conservation Education program, the full amount of General Fund support for the program.		
<hr/>		
Budget Changes	\$434,397	R
Total Position Changes		
Revised Total Budget	\$17,655,576	

Commerce

GENERAL FUND

		FY 12-13	
Total Budget Approved 2011 Session		\$33,250,463	
Budget Changes			
Department-wide			
34 Management Flexibility Reduction		(\$665,009)	R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.			
Administration			
35 Military Support Funds		\$500,000	NR
Provides funds to ensure military base continuity in North Carolina.			
Commerce Finance Center			
36 Job Maintenance and Capital Development Fund (JMAC)		\$7,500,000	NR
Provides \$7.5M nonrecurring for JMAC. \$6 million shall be allocated to fulfill existing agreements with Bridgestone/Firestone and Goodyear. \$1.5 million shall be allocated to fulfill year 2 of a pending agreement with Domtar.			
37 NC Broadband Rigor in Mapping (BRIM) Project		(\$200,000)	R
Replaces \$200,000 in General Fund appropriation with funds from a cash balance that existed when the e-NC Authority was abolished. \$175,730 will remain in General Fund appropriations for this purpose. The NC BRIM project is expected to be completed in October 2014.			
Community Assistance			
38 Assistant Secretary Position		(\$129,228)	R
Eliminates the Assistant Secretary Position (60077156) and associated salary and benefits. Employees in this division will now report to the Assistant Secretary for Energy, which will be retitled to be the Assistant Secretary for Energy and Community Assistance.			

Energy Office

39 Tennessee Valley Authority (TVA) Settlement Funds

Directs the Energy Office to apply for funding from the TVA Settlement Agreement in compliance with the requirements of paragraphs 122 through 128 of the Consent Decree. The requested funding will be for biofuels projects in alignment with work done by the Biofuels Center. Once funds are received, Commerce is to disburse them to the Biofuels Center. The settlement agreement provides \$11.2 million to North Carolina and funds can be drawn down in equal installments over five years; the State was authorized to begin collecting funds in 2011.

Office of Science and Technology

40 Continuation Review

Restores funding eliminated due to the Continuation Review of this program in FY 2011-12.

\$215,599 R

2.00

Tourism, Film, and Sports Development

41 Marketing

Provides additional one-time funds to market the State as a tourist destination.

\$250,000 NR

Budget Changes

(\$778,638) R

\$8,250,000 NR

Total Position Changes

1.00

Revised Total Budget

\$40,721,825

Commerce - State Aid

GENERAL FUND

Total Budget Approved 2011 Session

FY 12-13
\$30,151,984

Budget Changes

<p>42 Management Flexibility Reduction to all Commerce State-Aid Nonprofits Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program. The Department is to allocate this cut out on a pro-rata basis to all non-profits funded through Commerce State-Aid.</p>	<p>(\$1,289,040) R (\$28,000) NR</p>
<p>43 Biofuels Center of NC - TVA Settlement Agreement Funds Provides \$2.24 million in the Biofuels Center budget with receipts from the TVA Settlement Agreement. A corresponding item within the Commerce section of the budget directs Commerce to apply for funds from the TVA Settlement Agreement which will then be allocated to the Biofuels Center. The Biofuels Center is required to expend these funds on projects described in and in compliance with the requirements of paragraphs 122 through 128 in the Consent Decree. The Center is encouraged to award these funds to projects and programs in Western North Carolina. The settlement agreement provides \$11.2 million to North Carolina and can be draw down in equal installments over five years; the State was authorized to begin collecting funds in 2011.</p>	<p>(\$2,240,000) NR</p>
<p>44 Johnson & Wales Appropriates \$500,000 to Johnson & Wales University.</p>	<p>\$500,000 NR</p>
<p>45 RTI International Provides \$500,000 NR to RTI to match US Department of Energy grant funds.</p>	<p>\$500,000 NR</p>

46 Regional Economic Development Commissions

Provides additional funding to the Regional Economic Development Commissions, in addition to the \$2.25 million recurring already appropriated. Of the funds appropriated in this act to the Piedmont Triad Partnership for the 2012-13 fiscal year, the sum of \$56,000 nonrecurring shall instead be appropriated to the Montgomery County Economic Development Commission for the 2012-13 fiscal year.

\$2,339,500 NR

This item was amended by S.L. 2012-145, Modifications/2012 Appropriations Act, to provide an additional \$1 million nonrecurring to the Regional Economic Development Commissions.

Budget Changes	(\$1,289,040)	R
	\$1,071,500	NR
Total Position Changes		
Revised Total Budget	\$29,934,444	

N.C. Biotechnology Center

GENERAL FUND

	FY 12-13
Total Budget Approved 2011 Session	\$17,551,710
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Budget Changes	
47 Management Flexibility Reduction	(\$351,034) R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.	
<hr/>	
Budget Changes	(\$351,034) R
Total Position Changes	
Revised Total Budget	\$17,200,676

Rural Economic Development Center

GENERAL FUND

		FY 12-13
Total Budget Approved 2011 Session		\$25,376,729
<hr/>		
Budget Changes		
48 Operating Reduction		(\$3,250,000) R
Reduces the General Fund appropriation for the Rural Economic Development Center.		\$2,000,000 NR
<p>This item was amended by S.L. 2012-145, Modifications/2012 Appropriations Act, to provide an additional \$2 million nonrecurring to the Rural Economic Development Center.</p>		
49 Management Flexibility Reduction		(\$507,535) R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.		
<hr/>		
Budget Changes		(\$3,757,535) R
		\$2,000,000 NR
Total Position Changes		
Revised Total Budget		\$23,619,194

DACS - Livestock Acquisition

Budget Code: 23700

	FY 2012-13
Beginning Unreserved Fund Balance	\$4,498,899
Total Budget Approved 2011 Session	
Requirements	\$1,184,615
Receipts	\$677,920
Positions	0.00

Legislative Changes

Requirements:

Tennessee Valley Authority Settlement Funds	\$0	R
Provides funds from the Tennessee Valley Authority settlement to be expended on projects described in subsection h of paragraph 128 and in compliance with the requirements of paragraphs 122 through 128 of the Consent Decree. Subsection h allows for funds to be used by the agricultural and forestry sectors to use and produce renewable energy and carbon sequestration. The Department is encouraged to award these funds to projects and programs in Western North Carolina. The settlement agreement provides \$11.2 million to North Carolina, which can be drawn down in equal installments over five years; the State was authorized to begin collecting funds in 2011.	\$2,240,000	NR
Use of these funds is further restricted by Section 51 of S.L. 2012-194, GSC Technical Corrections/Other Changes, which limits the use of TVA funds appropriated to the Department of Agriculture to Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, and Yancey counties.	0.00	
Subtotal Legislative Changes	\$0	R
	\$2,240,000	NR
	0.00	

Receipts:

FY 2012-13

Tennessee Valley Authority

Provides funds from the Tennessee Valley Authority settlement to be expended on projects described in subsection h of paragraph 128 and in compliance with the requirements of paragraphs 122 through 128 of the Consent Decree. Subsection h allows for funds to be used by the agricultural and forestry sectors to use and produce renewable energy and carbon sequestration. The Department is encouraged to award these funds to projects and programs in Western North Carolina. The settlement agreement provides \$11.2 million to North Carolina, which can be drawn down in equal installments over five years; the State was authorized to begin collecting funds in 2011.

\$0 R
\$2,240,000 NR

Subtotal Legislative Changes

\$0 R
\$2,240,000 NR

Revised Total Requirements

\$3,424,615

Revised Total Receipts

\$2,917,920

Change in Fund Balance

(\$506,695)

Total Positions

0.00

Unappropriated Balance Remaining

\$3,992,204

Commerce Special GF

Budget Code: 24609

	FY 2012-13
Beginning Unreserved Fund Balance	\$77,403,582
Total Budget Approved 2011 Session	
Requirements	\$28,711,556
Receipts	\$28,476,737
Positions	0.00

Legislative Changes

Requirements:

One NC Fund - General Fund Transfer	\$0 R
Transfers \$45 million to the General Fund for general availability.	
Fifteen million will remain in the fund: ten million will be used to fund	\$45,000,000 NR
One NC grant agreements, in addition to the nine million recurring	
appropriated in the Reserves section. Notwithstanding any other law to	0.00
the contrary, \$5 million of the remaining funds shall be appropriated for	
economic development projects that shall not be subject to the terms of	
the One NC Fund.	
Subtotal Legislative Changes	\$0 R
	\$45,000,000 NR
	0.00

Receipts:

One North Carolina Fund	\$0 R
	\$0 NR
Subtotal Legislative Changes	\$0 R
	\$0 NR

Revised Total Requirements	\$73,711,556
Revised Total Receipts	\$28,476,737
Change in Fund Balance	(\$45,234,819)
Total Positions	0.00

Unappropriated Balance Remaining	\$32,168,763
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DENR Water Pollution Revolving Loan

Budget Code: 64311

	FY 2012-13
Beginning Unreserved Fund Balance	\$251,442,946
Total Budget Approved 2011 Session	
Requirements	\$64,304,756
Receipts	\$64,304,756
Positions	0.00

Legislative Changes

Requirements:

Clean Water State Revolving Fund	\$0	R
Directs the Department to use \$5,101,400 of its loan origination fee fund to provide the 20% State match needed to draw down \$25,507,000, the maximum available federal funds for the Clean Water State Revolving Fund for FY 2012-13.	\$0	NR
	0.00	
Subtotal Legislative Changes	\$0	R
	\$0	NR
	0.00	

Receipts:

Clean Water State Revolving Fund	\$0	R
	\$0	NR
Subtotal Legislative Changes	\$0	R
	\$0	NR

Revised Total Requirements	\$64,304,756
Revised Total Receipts	\$64,304,756
Change in Fund Balance	\$0
Total Positions	0.00

Unappropriated Balance Remaining	\$251,442,946
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DENR Drinking Water SRF

Budget Code: 64320

	FY 2012-13
Beginning Unreserved Fund Balance	\$66,581,987
Total Budget Approved 2011 Session	
Requirements	\$52,236,713
Receipts	\$51,066,125
Positions	0.00

Legislative Changes

Requirements:

Drinking Water State Revolving Fund		\$0 R
Directs the Department to use funds from the Drinking Water Reserve to provide the 20% State match needed to draw down the maximum available federal funds for the Drinking Water State Revolving Fund. The match amount of \$4,939,600 for Federal Fiscal Year 2011-12 will allow the State to draw down \$24,698,000 in federal funds, and the match amount of \$4,707,400 for the Federal Fiscal Year 2012-13 will allow the State to draw down \$23,537,000 in federal funds.		\$0 NR 0.00
Subtotal Legislative Changes		\$0 R \$0 NR 0.00

Receipts:

Drinking Water State Revolving Fund		\$0 R
Directs the Department to use funds from the Drinking Water Reserve to provide the 20% State match needed to draw down the maximum available federal funds for the Drinking Water State Revolving Fund. The match amount of \$4,939,600 for Federal Fiscal Year 2011-12 will allow the State to draw down \$24,698,000 in federal funds, and the match amount of \$4,707,400 for the Federal Fiscal Year 2012-13 will allow the State to draw down \$23,537,000 in federal funds.		\$0 NR
Subtotal Legislative Changes		\$0 R \$0 NR

Revised Total Requirements	\$52,236,713
Revised Total Receipts	\$51,066,125
Change in Fund Balance	(\$1,170,588)
Total Positions	0.00

Unappropriated Balance Remaining	\$65,411,399
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Wildlife Res. - MTR-BT-Int. Bearing

Budget Code: 24352

	FY 2012-13
Beginning Unreserved Fund Balance	\$992,340
Total Budget Approved 2011 Session	
Requirements	\$10,773,694
Receipts	\$10,773,694
Positions	0.00

Legislative Changes

Requirements:

Motor Fuels Adjustment and Cap	\$0 R
	\$0 NR
	0.00
Subtotal Legislative Changes	\$0 R
	\$0 NR
	0.00

Receipts:

Motor Fuels Adjustment and Cap	(\$196,833) R
Reduces the amount of receipts expected to be transferred from the Department of Transportation to the Wildlife Resources Commission.	\$0 NR
Subtotal Legislative Changes	(\$196,833) R
	\$0 NR

Revised Total Requirements	\$10,773,694
Revised Total Receipts	\$10,576,861
Change in Fund Balance	(\$196,833)
Total Positions	0.00

Unappropriated Balance Remaining	\$795,507
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**JUSTICE
&
PUBLIC SAFETY
Section I**

Public Safety

GENERAL FUND

Total Budget Approved 2011 Session

FY 12-13
\$1,694,715,876

Budget Changes

A. Department-wide

1 Management Flexibility Reserve (\$26,292,018) R
 Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.

B. Adult Correction

2 Treatment for Effective Community Supervision (\$5,000,000) NR
 Transfers \$5 million from the Statewide Misdemeanant Confinement Fund (Special Fund code 24500-2225) to the Division of Adult Correction (General Fund budget code 14500-1433) for the Treatment for Effective Community Supervision program. This program provides treatment services to probationers in the community.

3 BRIDGE Program (\$318,208) R
 Transfers the portion of the Young Offenders Forest Conservation Program (BRIDGE) that is currently funded by the Department of Public Safety to the Department of Agriculture and Consumer Services. BRIDGE program participants are young offenders from the Western Youth Institute who assist the NC Forest Service with firefighting and other forest management efforts. -7.00

4 Parole Commission \$169,267 R
 Expands the Parole Commission to meet the increased caseloads resulting from the Justice Reinvestment Act. The Parole Commission will be responsible for reviewing an additional 14,000 post release supervision cases annually. Effective August 1, 2012, provides funding to convert two part-time Parole Commissioners to full time. Effective February 1, 2013, provides funding to establish one additional full-time Parole Commissioner. 2.00

C. Juvenile Justice

5 Edgecombe Youth Development Center (\$1,707,982) R
 Closes Edgecombe Youth Development Center (YDC) and eliminates 57 full-time equivalent (FTE) positions, effective January 1, 2013. The Department is authorized to transfer five youth counselor associate positions to Chatham YDC and five youth counselor associate positions to Lenoir YDC to increase the operating capacities at those facilities from 28 beds each to 32 beds each. -57.00

D. Law Enforcement

6 Geodetic Survey Section Transfer

\$780,857 R

Transfers the Geodetic Survey Section from the Department of Environment and Natural Resources to the Department of Public Safety as a Type I transfer. Geodetic Survey will be housed in the Division of Law Enforcement, Emergency Management Section. The transfer includes \$36,683 in operating funds and the following positions:

11.92

General Fund Supported Positions:

Position	Title	Total Position Cost	FTE
60032386	Engineering/Architectural Supervisor	\$104,835	1.00
60032387	Office Assistant IV	\$ 43,691	1.00
60032389	Engineering/Architectural Technician	\$ 62,320	1.00
60032390	Engineering/Architectural Supervisor	\$ 78,995	1.00
60032393	Technology Support Analyst	\$ 60,575	1.00
60032395	Engineering/Architectural Technician	\$ 66,407	1.00
60032396	Engineering/Architectural Technician	\$ 52,381	1.00
60032399	Business And Technology Applic. Tech	\$ 72,037	1.00
60032400	Information & Communication Specialist	\$ 58,698	1.00
60032402	Engineering/Architectural Technician	\$ 38,901	0.92
60032403	Engineering/Architectural Technician	\$ 46,161	1.00
60032405	Engineering/Architectural Technician	\$ 59,173	1.00

Receipt Supported Positions:

60032392	Engineer	\$ 67,539	1.00
60032398	Engineering/Architectural Technician	\$ 63,939	1.00
60032401	Engineering/Architectural Technician	\$ 42,436	1.00
60032402	Engineering/Architectural Technician	\$ 3,535	0.08
60032404	Engineering/Architectural Technician	\$ 45,139	1.00
60032406	Engineering/Architectural Technician	\$ 42,436	1.00

7 Geodetic Survey Section Transfer

\$136,949 R

Transfers additional Geodetic Survey positions to the Emergency Management Section of the Division of Law Enforcement in the Department of Public Safety (DPS). These positions had been included in a Justification Review of DENR's Regional Offices. The following positions are transferred:

2.00

Position	Title	Total Position Cost	FTE
60032391	Engineering/Architectural Supervisor	\$77,859	1.00
60032397	Engineering/Architectural Technician	\$59,090	1.00

Budget Changes	(\$27,231,135)	R
	(\$5,000,000)	NR
Total Position Changes		-48.08
Revised Total Budget	\$1,662,484,741	

Justice

GENERAL FUND

		FY 12-13
Total Budget Approved 2011 Session		\$80,864,138
<hr/>		
Budget Changes		
A. Department-wide		
8 Management Flexibility Reserve		(\$1,617,283) R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.		
9 Non-recurring Operating Reduction		(\$3,000,000) NR
Uses DOJ receipts to partially fund operations for one year.		
B. Legal Services		
10 Consumer Protection		(\$1,757,780) R
Transfers the Consumer Protection Section to receipt support. Currently, half of this section is supported by receipts from settlement agreements. This reduction transfers the remaining consumer protection section to receipt support.		
		-17.00
11 Managed Care Section Transfer to DOI		(\$292,441) R
Transfers the Managed Care Unit within the Legal Services Division to the Department of Insurance (DOI), Health Insurance Ombudsman Services unit for efficiency through consolidation of duplicative functions. Appropriations for the Managed Care Unit in DOJ have been reimbursed by the Insurance Regulatory Fund, and appropriations for this function will continue to be reimbursed by the Insurance Regulatory Fund. Transferred positions include two Consumer Protection Specialists (60010426 and 60010427), an Administrative Secretary II (60010429) and a Consumer Protection Specialist funded with federal receipts (60010477). The vacant Special Deputy Attorney General position in the Unit (60010425) is eliminated.		
		-4.00
<hr/>		
Budget Changes		(\$3,667,504) R
		(\$3,000,000) NR
Total Position Changes		-21.00
Revised Total Budget		\$74,196,634

Judicial - Indigent Defense

GENERAL FUND

Total Budget Approved 2011 Session

FY 12-13
\$112,748,733

Budget Changes

12 No legislative changes.

Budget Changes

Total Position Changes

Revised Total Budget

\$112,748,733

Judicial

GENERAL FUND

		FY 12-13
Total Budget Approved 2011 Session		\$435,141,107
<hr/>		
Budget Changes		
13 Management Flexibility Reserve		(\$5,000,000) R
<p>Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.</p>		
14 Family Courts		\$2,865,693 R
<p>Restores the recurring appropriation for the Family Court Program.</p>		
		44.00
15 Administration of Mortgage Settlement Funds		(\$200,000) R
<p>Reduces the pass-through appropriation to the Conference of District Attorneys by \$200,000. The Conference of District Attorneys has been awarded \$6.69 million in the Mortgage Settlement Agreement. These funds are to be used for grants and training for prosecutorial offices throughout the State. A portion of the funds can be used for administration at the Conference.</p>		
Budget Changes		(\$2,334,307) R
Total Position Changes		44.00
Revised Total Budget		\$432,806,800

Correction - Special

Budget Code: 24500

	FY 2012-13
Beginning Unreserved Fund Balance	\$13,922,110
Total Budget Approved 2011 Session	
Requirements	\$0
Receipts	\$0
Positions	0.00

Legislative Changes

Requirements:

Statewide Misdemeanant Confinement Fund	\$0 R
Transfers \$5 million nonrecurring to the Division of Adult Correction for the Treatment of Effective Community Supervision program.	\$5,000,000 NR
	0.00
Subtotal Legislative Changes	\$0 R
	\$5,000,000 NR
	0.00

Receipts:

Statewide Misdemeanant Confinement Fund	\$0 R
	\$0 NR
Subtotal Legislative Changes	\$0 R
	\$0 NR

Revised Total Requirements	\$5,000,000
Revised Total Receipts	\$0
Change in Fund Balance	(\$5,000,000)
Total Positions	0.00

Unappropriated Balance Remaining	\$8,922,110
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**GENERAL
GOVERNMENT
Section J**

Administration

GENERAL FUND

Total Budget Approved 2011 Session	FY 12-13
	\$66,353,073

Budget Changes

1421 - Facilities Management

1 Green Square and Nature Research Center Building Reserve \$2,309,998 R
 Provides the necessary funds to operate the Nature Research Center and Green Square Office Building.

2 Reduce Natural Gas/Propane Appropriation (\$1,200,000) R
 Reduces appropriation for natural gas propane to more closely reflect the five year average.

2401 - E-Commerce Reserve

3 Reduce E-Commerce Reserve to Fund Cash Management Module
 Reduces the E-Commerce Reserve at the Department of Administration by \$2,470,642 to transfer to General Availability. Of this amount, \$1,347,397 will be utilized to fund the General Fund-supported portion of the Banking System Upgrade at the Office of the State Controller.

Department-wide

4 Management Flexibility Reduction (\$1,406,494) R
 Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.

Office of State Personnel

5 Management Flexibility Reduction (\$125,473) R
 Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.

State Ethics Commission

6 Management Flexibility Reduction (\$22,892) R
 Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.

Transition and Inauguration

7 Fund Governor's Transition and Inauguration

Provides funding for the Transition Team and Governor's Inauguration to fund all fiscal activities related to the Governor Inauguration and Transition for the Governor and Council of State. In FY 2008-09 these items were funded, in total, at \$420,000. Funds are to be distributed as follows:

\$420,000 NR

Fund Code: 1881: \$170,000
 Fund Code: 1882: \$250,000

Budget Changes	(\$444,861)	R
	\$420,000	NR
Total Position Changes		
Revised Total Budget	\$66,328,212	

Auditor

GENERAL FUND

	FY 12-13
Total Budget Approved 2011 Session	\$10,676,035

Budget Changes	
Department-wide	
8 Management Flexibility Reduction	(\$213,521) R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.	

Budget Changes	(\$213,521) R
Total Position Changes	
Revised Total Budget	\$10,462,514

Auditor

Page J - 3

Cultural Resources

GENERAL FUND

		FY 12-13	
Total Budget Approved 2011 Session		\$61,697,001	
<hr/>			
Budget Changes			
Department-wide			
9 Management Flexibility Reduction		(\$1,154,467)	R
<p style="padding-left: 40px;">Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.</p>			
Museum of Art			
10 Restore Operating Reduction		\$105,037	R
<p style="padding-left: 40px;">Partially restores the reduction to the Museum of Art's operating budget for FY 2012-13 directed in the 2011 Conference Report.</p>			
Museum of History			
11 Partially Restore Reduction		\$105,037	R
<p style="padding-left: 40px;">Restores two of the four Museum of History positions eliminated in FY 2012-13 in the 2011 Conference Report. Permits the Department flexibility in identifying one of the remaining two positions to eliminate in the Museum of History. Directs the Department to continue to eliminate position #60083995, identified in the 2011 Conference Report, as it is currently vacant.</p>			
State Arts Council			
12 Consolidate Functions and Reorganize Staff		(\$105,040)	R
<p style="padding-left: 40px;">Eliminates 2 vacant positions in the Arts Council, and directs the Department to reorganize the Arts Council staff to consolidate functions. The two vacant positions are #60080937 and #60083928.</p>			
13 Reduce Arts Grants		(\$2,640)	R
<p style="padding-left: 40px;">Reduces the appropriation for Basic Arts Grants, leaving \$3,289,680. Total General Fund appropriations for Basic Arts Grants and Grassroots Arts will total \$5,593,388, a reduction of 0.05%.</p>			

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

State Capitol

14 Consolidate Staff Functions

Eliminates the Executive Mansion Tour Coordinator position, consolidating this function with the State Capitol Tour Coordinator position and the Interpretation & Research Specialist position.

(\$46,793) R
-1.00

State Historic Sites

15 Partially Restore Transportation Museum Appropriation

Appropriates \$300,000 to the Transportation Museum to offset an anticipated shortage in receipts. S.L. 2011-145 directed the Transportation Museum to shift to 100% receipt-support in FY 2012-13, with a reduction in appropriations of \$1,152,515.

\$300,000 R

Tryon Palace

16 Tryon Palace Operating Funds

Partially restores the \$1.3 million reduction to Tryon Palace's budget in the 2011 Conference Report.

\$500,000 NR

Budget Changes

(\$798,866) R
\$500,000 NR

Total Position Changes

-1.00

Revised Total Budget

\$61,398,135

Cultural Resources - Roanoke Island Commission

GENERAL FUND

	FY 12-13	
Total Budget Approved 2011 Session	\$1,203,491	
<hr/>		
Budget Changes		
17 Budget Anticipated Receipts	(\$300,000)	R
<p>Budgets receipts based on investment income earnings. Roanoke Island Commission is directed to request from the Friends of Elizabeth II, Inc. funds equivalent to 80% of the total investment income earned at the end of the calendar year on the State funds provided to the Friends in prior years and invested on behalf of the Roanoke Island Commission's mission.</p>		
All RIC Fund Codes		
18 Technical Correction: Apply Reduction to Multiple Fund Codes	(\$1,203,491)	R
<p>Clarifies that the reduction of \$1.2 million (50%) in the 2011 Conference Report is to be achieved by reductions in Fund 1584 (RIC Operating Fund) and Fund 1586 (RIC Performing Arts Fund).</p>		
Fund Code 1584		
19 Technical Correction: Restore Reduction to Operating Fund Code	\$1,203,491	R
<p>Clarifies that the reduction of \$1.2 million (50%) in the 2011 Conference Report is to be achieved by reductions in Fund 1584 (RIC Operating Fund) and Fund 1586 (RIC Performing Arts Fund).</p>		
<hr/>		
Budget Changes	(\$300,000)	R
Total Position Changes		
Revised Total Budget	\$903,491	
<hr/>		

General Assembly

GENERAL FUND

	FY 12-13	
Total Budget Approved 2011 Session	\$50,104,208	
<hr/>		
Budget Changes		
Administration		
20 National Conference of State Legislatures Dues		
Eliminates appropriation for NCSL dues on a one-time basis, as FY 2012-13 payment was paid in FY 2011-12.	(\$204,390)	NR
Building & Maintenance		
21 Building & Maintenance Continuation Review	\$2,572,506	R
Restores recurring funding for the Building & Maintenance Division, which was subject to Continuation Review for FY 2011-12.	31.60	
Department-wide		
22 Management Flexibility Reduction	(\$797,694)	R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.		
Information Systems Division		
23 Clarify Funding Mechanism	\$2,114,555	R
Clarifies language in Item #61 of the 2011 Conference Report. Continues the elimination of appropriations for ISD non-personnel costs for FY 2012-13 by budgeting receipts from the Carryforward Reserve on a nonrecurring basis. Restores operating account requirements and offsets those requirements with Carryforward Reserve receipts.	(\$2,114,555)	NR
<hr/>		
Budget Changes	\$3,889,367	R
	(\$2,318,945)	NR
Total Position Changes		31.60
Revised Total Budget	\$51,674,630	

Governor

GENERAL FUND

	FY 12-13
Total Budget Approved 2011 Session	\$4,741,157
<hr/>	
Budget Changes	
Department-wide	
24 Management Flexibility Reduction	(\$94,823) R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.	
<hr/>	
Budget Changes	(\$94,823) R
Total Position Changes	
Revised Total Budget	\$4,646,334

Governor

Page J - 8

Housing Finance Agency

GENERAL FUND

	FY 12-13	
Total Budget Approved 2011 Session	\$9,673,051	
Budget Changes		
1100 - Home Protection Pilot		
25 Eliminate Funding for Home Protection Pilot	(\$187,879)	R
Eliminates funding for the Home Protection Pilot Program. Funding is unnecessary due to the Housing Finance Agency's participation in the Hardest Hit Program.		
1100 - Housing Trust Fund		
26 Utilization of Housing Settlement Funds to Fund the Housing Trust Funds	(\$7,876,755)	NR
Eliminates, on a non-recurring basis, the General Fund appropriation to the Housing Trust Fund. Funds from the Mortgage Settlement Agreement to the Housing Finance Agency may be redirected or deposited into the Housing Trust Fund to offset FY 2012-13 non-recurring reductions to the fund. Nothing in this item is intended to, or shall be construed to, conflict with the mandatory requirements of the Mortgage Settlement Agreement.		
Budget Changes	(\$187,879)	R
	(\$7,876,755)	NR
Total Position Changes		
Revised Total Budget	\$1,608,417	

Insurance

GENERAL FUND

	FY 12-13	
Total Budget Approved 2011 Session	\$36,393,921	
Budget Changes		
27 Consolidate Health Insurance Ombudsman Programs	\$159,055	R
Transfers the Managed Care Unit within the Consumer Protection Division of the Department of Justice (DOJ) to the Department of Insurance, Health Insurance Ombudsman Services unit for efficiency through consolidation of duplicative functions. Appropriations for the Managed Care Unit in DOJ were reimbursed by the Insurance Regulatory Fund, and appropriations for this function will continue to be reimbursed by the Insurance Regulatory Fund. Transferred positions include two Consumer Protection Specialists (#60010426 & #60010427), an Administrative Secretary II (#60010429) and a Consumer Protection Specialist funded with federal receipts (#60010477). The vacant Special Deputy Attorney General position in the Unit (#60010425) is eliminated.	3.00	
Net reduction in appropriations reimbursed by the Insurance Regulatory Fund: (\$133,387) Recurring		
Consumer Protection Fund		
28 Increase Consumer Protection Fund Appropriation	\$300,000	R
Increases the appropriation for the Consumer Protection Fund to \$628,227, based on prior year actual expenditures. Appropriations will be reimbursed by the Insurance Regulatory Fund.		
Budget Changes	\$459,055	R
Total Position Changes	3.00	
Revised Total Budget	\$36,852,976	

Insurance - Volunteer Safety Workers'
Compensation Fund

GENERAL FUND

Total Budget Approved 2011 Session

FY 12-13

\$2,623,654

Budget Changes

29 No Changes

Budget Changes

Total Position Changes

Revised Total Budget

\$2,623,654

Lieutenant Governor

GENERAL FUND

	FY 12-13
Total Budget Approved 2011 Session	\$695,324
<hr/>	
Budget Changes	
Department-wide	
30 Consolidate Functions	(\$144,150) R
Reduces appropriations for staff salaries and related expenses, effective December 31, 2012. The Office is directed to consolidate staff functions and reduce positions to achieve savings.	
<hr/>	
Budget Changes	(\$144,150) R
Total Position Changes	
Revised Total Budget	\$551,174

Office of Administrative Hearings

GENERAL FUND

Total Budget Approved 2011 Session	FY 12-13 \$4,142,258
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Budget Changes

31 No Changes

Budget Changes

Total Position Changes

Revised Total Budget **\$4,142,258**

Revenue

GENERAL FUND

	FY 12-13
Total Budget Approved 2011 Session	\$78,199,538
<hr/>	
Budget Changes	
1629 - Local Government Division	
32 Combined Registration and Tax Collection System	
Budgets receipts from the Combined Motor Vehicle and Registration Account to support the development and implementation costs for the Combined Motor Vehicle Registration and Property Tax System as required by S.L. 2005-294. The total costs for FY 2012-13 are \$377,797 with \$353,197 of this amount as recurring costs. Four new positions within the division are created:	
Business & Technology Application Specialist	
DBE Specialist	
Property Valuation Specialist I	
Property Valuation Specialist II	
1710 - Fuel Tax Compliance	
33 Eliminate Vacant Positions	
Eliminates ten (10) vacant positions for a total personnel savings to the Highway Fund of \$488,366. Other costs to support these personnel, such as travel, per diem, and supplies are reduced by \$32,000.	
The positions eliminated include eight (8) Motor Fuel Auditors and two (2) Law Enforcement Agents. The position numbers supported by the Highway Fund are 60083149, 60083173, 60083153, 60083182, 60083177, 60083178, 60083201, and 60083205. Two positions supported with federal funds are 65007466 and 65007490.	
Department-wide	
34 Management Flexibility Reduction	(\$1,563,991) R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.	
<hr/>	
Budget Changes	(\$1,563,991) R
Total Position Changes	
Revised Total Budget	\$76,635,547
<hr/>	

Revenue

	FY 12-13	
Total Budget Approved 2011 Session	\$10,654,563	
Budget Changes		
1600 - Charitable Fund Raising		
35 Move Charitable Fund Raising to General Fund Support	\$816,936	R
Moves the Charitable Fund Raising Division at the Secretary of State to General Fund support. Receipts that are collected by the Division and associated administration will be credited to the General Fund, which include over-realized receipts of \$162,816.	9.43	
Department-wide		
36 Management Flexibility Reduction	(\$50,275)	R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.		
Budget Changes	\$766,661	R
Total Position Changes	9.43	
Revised Total Budget	\$11,421,224	

State Board of Elections

GENERAL FUND

	FY 12-13
Total Budget Approved 2011 Session	\$5,126,603
<hr/>	
Budget Changes	
Department-wide	
37 Management Flexibility Reduction	(\$102,532) R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.	
<hr/>	
Budget Changes	(\$102,532) R
Total Position Changes	
Revised Total Budget	\$5,024,071

State Budget & Management

GENERAL FUND

	FY 12-13
Total Budget Approved 2011 Session	\$5,848,663
<hr/>	
Budget Changes	
Department-wide	
38 Management Flexibility Reduction	(\$116,973) R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.	
<hr/>	
Budget Changes	(\$116,973) R
Total Position Changes	
Revised Total Budget	\$5,731,690

State Budget and Management - Special

GENERAL FUND

	FY 12-13	
Total Budget Approved 2011 Session	\$440,612	
<hr/>		
Budget Changes		
39 Align Budget With 2011 Reductions	(\$390,612)	R
Adjusts the total transferred to the Department of Insurance for the Fire Protection Grant Fund to account for the 10% reduction directed in the 2011 Conference Report.		
40 Transition Reserve	\$330,000	NR
Funds a reserve for operating expenses and temporary staff for planning, reorganization, and other activities related to the transition of Executive Branch offices. Any unspent funds shall revert to the General Fund at the end of the fiscal year.		
41 NC Symphony Challenge Grant	\$1,500,000	NR
Provides a Challenge Grant for the North Carolina Symphony of \$1.5 million, for which the Symphony will raise \$8 million in non-State revenue.		
N.C. Humanities Council		
42 Management Flexibility Reduction	(\$1,000)	R
Implements a necessary management flexibility reduction to pay for unbudgeted overpayments, penalties and unachieved reductions in the Medicaid Program.		
<hr/>		
Budget Changes	(\$391,612)	R
	\$1,830,000	NR
Total Position Changes		
Revised Total Budget	\$1,879,000	

State Controller

GENERAL FUND

	FY 12-13	
Total Budget Approved 2011 Session	\$28,368,957	
Budget Changes		
43 HR/Payroll Operational Support	\$453,383	R
Funds maintenance agreements for the BEACON system.		
44 Cash Management Module	\$1,347,397	NR
Funds the Office of the State Controller's portion of the upgrade of the State's Cash Management System. This is a joint project between the Department of the State Treasurer and the Office of the State Controller.		
BEACON HR Payroll		
45 Eliminate Vacant Position.	(\$111,365)	R
Eliminates position vacant more than 240 days: #60087179 Personnel Supervisor II.		
	-1.00	
Department-Wide		
46 Reduce Various Operating Line Items	(\$109,003)	R
Reduces appropriations for the following based on actual expenditures:		
532xxx Purchased Services: (\$107,547)		
533xxx Supplies: (\$687)		
534xxx Property, Plant & Equipment: (\$769)		
Budget Changes	\$233,015	R
	\$1,347,397	NR
Total Position Changes	-1.00	
Revised Total Budget	\$29,949,369	

Total Budget Approved 2011 Session
FY 12-13
\$6,621,750

Budget Changes**1310 - Local Government Operations****47 Audit, Integrated Debt, And Fiscal Management System**

Funds the acquisition of an electronic audit management system and the development and implementation of a debt management system. The Department received authorization for the first phase of the project in FY 2011-12 regarding a document management system. This is the second phase of the project. Funding for the project is from fees assessed by the Department on debt issuances which were previously approved by the General Assembly. Total cost for the system in FY 2012-13 is \$1,082,219 with \$200,419 recurring and \$881,800 non-recurring.

1510 - Financial Operations Division**48 Banking System Upgrade**

Funds the Department of State Treasurer's portion of the upgrade of the State's Cash Management System that is utilized by the State's Pension Fund. This is a joint project between the Department of the State Treasurer and the Office of the State Controller. The portions not related to the State's Pension Fund shall be funded by an appropriation to the Office of the State Controller. The total amount authorized to be used by the Department of the State Treasurer is \$2,052,000 in FY 2012-13.

Budget Changes
Total Position Changes**Revised Total Budget****\$6,621,750**

Treasurer - Retirement for Fire and Rescue

GENERAL FUND

Total Budget Approved 2011 Session	FY 12-13
	\$17,812,114

Budget Changes

49 No Changes

Budget Changes

Total Position Changes

Revised Total Budget

	\$17,812,114
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TRANSPORTATION

Section K

Highway Fund

HIGHWAY FUND

Total Budget Approved 2011 Session

FY 12-13

\$2,134,160,000

Budget Changes

Administration

1 Information Technology \$2,020,000 R

Appropriates additional funds to support telecommunication (\$750,000) and data processing costs (\$930,000), as well as lease requirements (\$340,000).

2 Information Technology - Combined Registration and Tax Collection System

Budgets receipts from the Combined Motor Vehicle and Registration Account to support development and implementation costs for the Combined Motor Vehicle Registration and Property Tax Collection System. Receipts budgeted for FY 2012-13 total \$2,267,963 recurring and \$12,290,309 non-recurring.

3 Fiscal - Combined Registration and Tax Collection System

Authorizes six (6) receipt-supported positions to oversee the collection of registration fees and property taxes in advance of the July 1, 2013 implementation date for the Combined Motor Vehicle Registration and Property Tax Collection System. Pre-implementation functions include initiation of system projects and changes which affect revenue capture and reporting from the: State Registration and Titling System (STARS), Vehicle Property Tax System (VPT), State Automated Driver's License System (SADLS), Fuel Tax Compliance System (FuelTacs), SAP, the Division of Motor Vehicles (DMV) Bad Debt System, and other DMV subsystems.

Budgeted receipts for FY 2012-13 total \$370,038 recurring and \$121,806 non-recurring, per transfers from the Combined Motor Vehicle and Registration Account.

Effective dates for the authorized positions are shown below:

Grade	Position Title	Effective Date
Banded - J	Accounting Manager	07/01/2012
Banded - A	Accountant	08/01/2012
Banded - C	Accountant	09/01/2012
Banded - J	Accounting Technician	09/01/2012
Banded - C	Accountant	12/01/2012
Banded - J	Accounting Technician	12/01/2012

Construction

4 Contingency Fund

Appropriates \$22,000,000 of accumulated unencumbered fund balance from the Contingency Fund.

5 Secondary Roads

(\$26,293,824) R

Reduces funding to the secondary system construction program to meet new revenue target. The total budget is \$27,186,358 in FY 2012-13.

Department-wide

6 Personnel Reduction

(\$588,561) R

Eliminates 70 vacant positions throughout the Department, including: nine (9) positions funded with Highway Funds; 12 receipt-supported Highway Trust Fund positions totaling \$661,669; and 49 field positions totaling \$3,439,178. The total includes salary, benefits, and an employee cost multiplier of 2.31%. DOT is directed to identify all positions for elimination.

-9.00

Division of Motor Vehicles

7 Adjust Driver License Credit/Debit Costs

(\$792,641) NR

Reduces funds budgeted for credit/debit card transaction costs based on the revised implementation timeline for the Next Generation Secure Driver License System (NGSDLS) and a rate reduction for Information Technology Services (ITS) common payment services. Phased implementation of the NGSDLS is targeted for January 2013.

8 Bulk Data Fee Receipts

\$4,000,000 R

Adjusts net appropriations per projected FY 2012-13 bulk data fee receipts.

9 Internal Consolidation

(\$768,963) R

Consolidates the Division of Motor Vehicles (DMV) fiscal, human resources, information technology, facility management, and associated functions assigned to the "DOT PAM/PD DMV II Operations" and "DOT PAM/PD DMV II Operations Budget" organizational units among respective central administrative units of the Department of Transportation.

-13.00

The following positions are eliminated effective July 31, 2012, per this restructuring:

Position Number	Position Title
60029792	Administrative Assistant
60029795	Technology Support Analyst
60029798	Safety Officer II
60029799	Business Officer
60030094	Administrative Officer III
60029837	Departmental Purchasing Agent I
60030103	Processing Assistant IV
60030155	Processing Assistant V
60030157	Processing Assistant V
60030165	Administrative Assistant I
60030168	Departmental Purchasing Agent I
60030925	Departmental Purchasing Agent I
60088760	Accountant

Annualized savings, beginning in FY 2013-14, total \$838,868. An additional \$282,480 is appropriated, per item 27, on a non-recurring basis for estimated severance payments incurred during FY 2012-13.

10 Driver License Program Continuation Review

\$47,713,947 R

Restores recurring funds held in reserve for the Driver License Program per continuation review.

11 DMV - Combined Registration and Tax System

Authorizes 43 receipt-supported positions, of which 22 are time-limited, within the Vehicle Services Section to implement and administer the Combined Motor Vehicle Registration and Property Tax Collection System. This authorization includes: four (4) Staff Development Specialist I positions to conduct training in advance of system implementation; four (4) Administrative Assistant II positions to assist license plate agencies by recording and resolving system problems; two (2) Title Examiner Supervisor I positions to supervise call center employees; four (4) Information Processing Technicians to support transaction volumes at the Raleigh and Charlotte offices; 25 Information Processing Technicians to resolve customer service requests; and, four (4) Processing Assistant IV positions to accommodate increases in mailings and internet renewals. Time-limited positions shall terminate no later than June 30, 2014.

Budgeted receipts for FY 2012-13 total \$1,407,763 recurring and \$1,802,955 non-recurring. Non-recurring costs include equipment acquisitions to implement credit/debit payments at license plate agencies and State offices. These costs are offset by corresponding transfers from the Combined Motor Vehicle and Registration Account.

Effective dates for the authorized positions are shown below:

Grade	Position Title	Effective Date	FTE
67	Staff Development Specialist I	07/01/2012	1.00
67	Staff Development Specialist I - TL	07/01/2012	3.00
65	Administrative Assistant II	10/01/2012	2.00
65	Administrative Assistant II - TL	10/01/2012	2.00
64	Title Examiner Supervisor I	10/01/2012	2.00
63	Information Processing Technician	10/01/2012	14.00
63	Information Processing Technician - TL	10/01/2012	15.00
59	Processing Assistant IV	04/01/2013	2.00
59	Processing Assistant IV - TL	04/01/2013	2.00

Intermodal

12 Public Transportation Division - New Starts

(\$28,972,845) R

Eliminates the Regional New Start & Capital grant program within the Public Transportation Division. The remaining unexpended program balance within the Highway Fund is allocated for the LYNX Blue Line Extension project.

13 Public Transportation Division - Grant Programs

(\$1,935,661) R

Increases the recurring reduction across Public Transportation Division grant programs from 6% to 9%. International Trade Show Transportation grants are exempt from this reduction.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

<p>14 Public Transportation Division - LYNX Blue Line Extension Appropriates \$25 million recurring within the Public Transportation Division as State matching funds for the LYNX Blue Line Extension project.</p>	<p>\$25,000,000 R</p>
<p>15 Rail Division - Personnel Reduction Eliminates one (1) vacant, receipt-supported field position (60015656 Engineering Technician) totaling \$74,900 in estimated operating savings.</p>	
<p>16 Rail Division - Operating Reduction Reduces funding for the Streamline Freight Operations (\$250,000) and Rail Capital and Safety (\$250,000) subprograms.</p>	<p>(\$500,000) R</p>
<p>17 Ferry Division - Toll Revenue S.L. 2012-145, Sec. 6.2, Modifications/2012 Appropriations Act, establishes a one-year delay on the implementation of additional and new tolls as required by S.L. 2011-145, Sec. 31.30. Non-recurring funds, totaling \$2.5 million, are appropriated to offset budgeted toll receipts as follows: - \$2 million is transferred from the Highway Trust Fund and budgeted as one-time receipts; and, - \$500,000 is reallocated from the Reserve for General Maintenance.</p>	<p>\$500,000 NR</p>
<p>18 Ferry Division - Dredge Replacement Project Adjusts funding for the dredge build project per the engineer's estimate of total project cost.</p>	<p>(\$3,000,000) NR</p>

19 Ferry Division - Personnel Reduction

Eliminates nineteen (19) vacant, receipt-supported field positions totaling \$787,294 in estimated operating savings. The total includes salary, benefits, and an employee cost multiplier of 2.31%. FTE reductions are as follows:

Position Number	Position Title
60018911	Office Assistant III
60018566	Processing Assistant III
60018501	Ferry Crew Member I
60018533	Security Guard
60018538	Security Guard
60018611	Security Guard
60018617	Security Guard
65009109	Security Guard
65009108	Security Guard
60089130	Ferry Crew Member I
60018643	Security Guard
60018667	Security Guard
60018729	Security Guard
65009103	Security Guard
60018490	Dredge Deckhand
60018796	Ferry Master
60018883	Maintenance Mechanic IV
60018872	Processing Assistant IV
60018864	Processing Assistant III

Maintenance

20 Primary System	(\$43,823,040)	R
Reduces funding to the primary system maintenance program to meet new revenue target. The total budget is \$138,147,758 in FY 2012-13.		
21 Secondary System	(\$17,529,216)	R
Reduces funding to the secondary system maintenance program to meet new revenue target. The total budget is \$246,982,608 in FY 2012-13.		
22 System Preservation	\$520,014	R
Per G.S. 119-18(b), increases system preservation by \$520,014 from cuts made to the Department of Revenue's Taxpayer Collection Division for motor fuel enforcement and auditing. The total budget is \$235,504,017 in FY 2012-13.		

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

23 General Maintenance Reserve

S.L. 2012-145, Sec. 6.2, Modifications/2012 Appropriations Act, reduces funding to the General Maintenance Reserve by \$500,000 non-recurring to offset the costs associated with the one-year delay in additional and new ferry tolls.

(\$500,000) NR

Reserves

24 Compensation Adjustment and Performance Pay Reserve

Eliminates the reserve in FY 2012-13.

(\$4,906,715) R

25 Highway Fund Reserve for Compensation Increases

Provides funding to support an annual salary increase of 1.2% to permanent employees whose salaries are supported by Highway Fund appropriations.

\$4,668,590 R

26 Disability Income Plan of North Carolina

Reduces the State's contribution to the Disability Income Plan from .52% of payroll to .44% of payroll (a .08% reduction) as a result of the December 31, 2010 actuarial valuation.

(\$255,000) R

27 Severance Expenditure Reserve

Increases funding for severance salary continuation payments and health benefit coverage under the State Health Plan for employees reduced-in-force.

\$282,480 NR

28 State Retirement System Contributions - State Highway Patrol Transfer

Adjusts the budgeted retirement contribution to the Teachers' and State Employees' Retirement System for 2012-13 per the transfer of the State Highway Patrol to the General Fund.

(\$4,000,000) R

29 State Health Plan - State Highway Patrol Transfer

Adjusts funding for the State Health Plan per the transfer of the State Highway Patrol to the General Fund.

(\$1,000,000) R

30 Global TransPark

Reduces operating assistance to the Global TransPark by \$152,000. FY 2012-13 appropriations total \$1.0 million.

(\$152,000) R

Highway Fund

Page K - 7

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

31 Reserve for Continuation Review

Eliminates the internal reserve for the Driver License Program per restoration of funding.

(\$47,713,947) R

Revenue Availability

32 Inspection Program Account Balance

Notwithstanding G.S. 20-183.7(d) to appropriate \$5.0 million from the Inspection Program Account balance. Highway Fund availability is adjusted accordingly.

33 Civil Penalty Collections

Reduces estimated Highway Fund revenue by \$22.0 million to reflect a change in accounting procedure. Rather than recording civil penalty proceeds as revenue, the clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by the Department of Transportation for transfer to the Civil Penalty and Forfeiture Fund shall be recorded as receipts and budgeted in a receipt-supported fund center for transfer to the Civil Penalty and Forfeiture Fund.

Statutory Adjustments

34 Aid to Municipalities

Reduces funds for State Aid to Municipalities for FY 2012-13, consistent with new revenue estimates and G.S. 136-41.1.

(\$912,604) R

Transfers

35 Highway Trust Fund

S.L. 2012-145, Sec. 6.2, Modifications/2012 Appropriations Act, transfers \$2 million nonrecurring from the Highway Trust Fund to the Highway Fund to offset the costs associated with the one-year delay in additional and new ferry tolls.

36 State Retirement System Contributions - State Highway Patrol Transfer

Adjusts the budgeted retirement contribution to the Teachers' and State Employees' Retirement System for 2011-12 and 2012-13 per the transfer of the State Highway Patrol to the General Fund.

\$4,000,000 R

\$3,000,000 NR

37 State Health Plan Contribution - State Highway Patrol Transfer

Adjusts the budgeted contribution for the State Health Plan in 2012-13 per the transfer of the State Highway Patrol to the General Fund.

\$1,000,000 R

Highway Fund

Page K - 8

38 Department of Revenue - Taxpayer Collections (Motor Fuels) (\$520,014) R

Eliminates ten (10) vacant positions for a total personnel savings of \$488,014. Other costs to support these personnel, such as travel, per diem, and supplies are reduced by \$32,000. The savings transferred to System Preservation total \$520,014.

The positions eliminated include eight (8) Motor Fuel Auditors and two (2) Law Enforcement Agents. The position numbers supported by the Highway Fund are 60083149, 60083173, 60083153, 60083182, 60083177, 60083178, 60083201, and 60083205. Two positions supported with federal funds are 65007466 and 65007490.

39 Motor Carrier Safety Assistance Program (MCSAP) \$330,000 R

Increases budgeted State matching funds to match \$6.0 million in anticipated federal MCSAP basic and incentive grants administered by the Department of Public Safety, State Highway Patrol. Appropriated matching and maintenance of effort funds total \$1,980,458.

40 Civil Penalty and Forfeiture Fund (\$22,000,000) R

Eliminates the appropriated reserve (84210-0889) historically used to budget civil penalty collections and transfer funds to the Civil Penalty and Forfeiture Fund. Civil penalties are instead budgeted as receipts to better account for the annual fluctuation in collections, and to establish consistency in statewide accounting procedures. Estimated Highway Fund revenue is reduced accordingly.

Per FY 2012-13 projections, an estimated \$29.88 million will be transferred to the Civil Penalty and Forfeiture Fund.

Budget Changes	(\$112,619,839)	R
	(\$510,161)	NR
Total Position Changes	-22.00	
Revised Total Budget	\$2,021,030,000	

Highway Trust Fund

HIGHWAY TRUST FUND

Total Budget Approved 2011 Session	FY 12-13	\$1,086,910,000
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Budget Changes

Administration

41 Statutory Adjustment to Program Administration (\$1,516,320) R
 Decreases funds for Program Administration for FY 2012-13 consistent with new revenue estimates and G.S. 136-176(b). The total budget is \$45,590,880 in FY 2012-13.

Aid to Municipalities

42 Statutory Adjustment to Aid to Municipalities Allocation (\$979,789) R
 Decreases funds for State Aid to Municipalities for FY 2012-13, consistent with new revenue estimates and G.S. 136-176(b)(3). The total budget is \$53,063,643 in FY 2012-13.

Construction

43 Secondary Roads (\$979,789) R
 Reduces funds for Secondary Roads by 6.5% of the total amount needed to balance the Highway Trust Fund in accordance to the formula in G.S. 136-176(b)(4). The total budget is \$48,341,155 in FY 2012-13.

44 Intrastate System (\$9,338,145) R
 Reduces funds for the Intrastate System by 61.95% of the total amount needed to balance the Highway Trust Fund in accordance to the formula in G.S. 136-176(b)(1). The total budget is \$478,164,889 in FY 2012-13.

45 Urban Loops (\$3,775,957) R
 Reduces funds for Urban Loops by 25.05% of the total amount needed to balance the Highway Trust Fund in accordance to the formula in G.S. 136-176(b)(2). The total budget is \$209,182,029 in FY 2012-13.

Mobility Fund

46 DOT Prioritization Reserve (\$45,000,000) R
 Eliminates the DOT Prioritization Reserve.

Conference Report on the Continuation, Capital and Expansion Budgets

FY 12-13

47 Mobility Fund

Transfers funds in the DOT Prioritization Reserve to the Mobility Fund and transfers \$30.5 million in unneeded FY 2012-13 gap funds appropriated to the Garden Parkway and Mid-Currituck Bridge projects.

\$45,000,000 R
\$30,500,000 NR

Transfers

48 Highway Fund

S.L. 2012-145, Sec. 6.2, Modifications/2012 Appropriations Act, transfers \$2 million nonrecurring from the Highway Trust Fund to the Highway Fund to offset the costs associated with the one-year delay in additional and new ferry tolls.

Turnpike Authority

49 Gap Funds

Eliminates the FY 2012-13 gap funding to the Garden Parkway and the Mid-Currituck Bridge projects based on a determination by DOT that these two projects will not issue debt until FY 2013-14.

(\$32,500,000) NR

50 Mid-Currituck Bridge Project

Reallocates \$15,000,000 of unencumbered gap funds appropriated in FY 2011-12 to the Mid-Currituck Bridge project.

51 Mid-Currituck Bridge Funding

Appropriates \$2 million to supplement and advance project studies related to the Mid-Currituck Bridge project to move the project forward to construction.

[S.L. 2012-145, Sec. 6.2, Modifications/2012 Appropriations Act, eliminates the funding for studies related to the Mid-Currituck Bridge project and transfers the funds to the Highway Fund to offset the costs associated with the one-year delay in additional and new ferry tolls.]

Budget Changes

(\$16,590,000) R
(\$2,000,000) NR

Total Position Changes

Revised Total Budget

\$1,068,320,000

Turnpike Authority

TURNPIKE AUTHORITY

	FY 12-13
Total Budget Approved 2011 Session	\$3,642,571

Budget Changes	
Turnpike Authority Administration	
52 Reduces Operating Funds	(\$336,193) R
Eliminates three (3) vacant receipt-supported positions totaling \$336,193. The total includes salary, benefits, and an employee cost multiplier of 2.31%.	
60088764 Engineering Manager	
65004640 Technology Support Specialist	
65007229 Business Officer	

Budget Changes	(\$336,193) R
Total Position Changes	
Revised Total Budget	\$3,306,378

**RESERVES/
DEBT SERVICE/
ADJUSTMENTS
Section L**

Statewide Reserves

GENERAL FUND

Total Budget Approved 2011 Session

FY 12-13
\$1,415,660,126

Budget Changes

A. Employee Benefits

- 1 Compensation and Performance Pay Reserve** (\$121,105,840) R
Eliminates the reserve in FY 2012-13.
- 2 Reserve for Compensation Increases and Personnel Flexibility** \$159,984,426 R
Provides funds to support salary increases for employees of State agencies, departments, institutions, public schools, and university SPA employees and to support salary increases and personnel flexibility for university EPA employees and employees of community college institutions.
- 3 State Agency/Department Salary Increases**
Provides up to \$30,046,765 to support an annual salary increase of 1.2% for permanent employees of State agencies and departments.
- 4 Public School Salary Increases**
Provides up to \$84,964,142 to local school administrative units to support an annual salary increase of 1.2% for State-funded public school employees.
- 5 Community College Salary Increases/Personnel Flexibility**
Provides up to \$14,102,935, the amount necessary to support a 1.2% annual salary increase, to State-funded community college employees. The State Board of Community Colleges may use these funds to award compensation increases to employees, including but not limited to merit increases, across-the-board increases, recruitment bonuses, retention increases, and other increases pursuant to applicable personnel policies; to offset the management flexibility reduction; and to employ personnel.
- 6 University Salary Increase/Personnel Flexibility**
Provides up to \$8,649,234 for SPA employees and \$22,221,350 for EPA employees, the amount necessary to support a 1.2% annual salary increase. Permanent university SPA employees shall receive a 1.2% annual salary increase. The University Board of Governors may use funds designated for EPA faculty and EPA nonfaculty to award compensation increases to EPA employees including but not limited to merit increases, across-the-board increases, recruitment bonuses, retention increases, and other increases pursuant to applicable personnel policies; to offset the management flexibility reduction; and to employ personnel.
- 7 Highway Fund Reserve for Compensation Increases**
Provides funding in the amount of \$4,668,590 recurring to support an annual salary increase of 1.2% to permanent employees whose salaries are supported by Highway Fund appropriations.

8 Retirement Systems Cost of Living Increase		
Provides a 1.0% cost of living adjustment to retirees of the Teachers' and State Employees' Retirement System effective July 1, 2012.		
Also, provides a 1.0% cost of living adjustment to retirees of the Legislative Retirement System effective July 1, 2012.		
9 Consolidated Judicial Retirement System	\$100,000	R
Increases the State's contribution for Fiscal Year 2012-13 to provide a 1.0% cost-of-living adjustment for retirees of the Consolidated Judicial Retirement System.		
10 Disability Income Plan of North Carolina	(\$8,688,000)	R
Reduces the State's contribution to the Disability Income Plan from .52% of payroll to .44% of payroll (a .08% reduction) as a result of the December 31, 2010 actuarial valuation.		
B. Other Reserves		
11 One North Carolina Fund	\$9,000,000	R
Provides recurring funding for the One North Carolina Fund. A corresponding special provision changes the funding basis to cash flow. The Fund currently has a cash balance of over \$60.0 million. \$15.0 million will remain in the Fund and \$45.0 million will be transferred to the General Fund.		
12 Job Development Investment Grant Reserves	(\$6,500,000)	NR
Reduces the funding for Job Development Investment Grants to the amount needed to meet projected needs for FY 2012-13 grant payments.		
13 Information Technology Fund	(\$750,000)	NR
Continues reduction in IT consolidation funding taken by the Office of State Budget and Management in FY 2011-12.		
14 Continuation/Justification Review Reserve	(\$35,576,758)	NR
Eliminates reserve due to the distribution of funds to agencies with programs under review.		
15 VIPER Reserve	\$10,000,000	NR
Authorizes the State Highway Patrol to use up to \$10 million in the 2011-13 fiscal biennium for the Voice Interoperability Plan for Emergency Response (VIPER) system. Funds may be used for construction of the remaining 23 towers and for migrating existing and new sites to P25 technology.		
C. Debt Service		
16 Adjust Debt Service Payments	(\$52,904,635)	R
Adjusts debt service appropriations based on updated cash flow requirements.		

Budget Changes	(\$13,614,049)	R
	(\$32,826,758)	NR
Total Position Changes		
Revised Total Budget	\$1,369,219,319	

State Health Plan (Administration)

Budget Code: 28410

	FY 2012-13
Beginning Unreserved Fund Balance	\$40,005
Total Budget Approved 2011 Session	
Requirements	\$183,604,143
Receipts	\$183,604,143
Positions	42.00

Legislative Changes

Requirements:

Other Administrative Cost	\$328,332	R
Creates three new staff positions to administer a Medicare Part D Employer Group Waiver Plan (EGWP) that will reduce the State Health Plan's cost of drug coverage.	\$10,200	NR
	3.00	
Pharmacy Benefits Management Contract	\$5,444,717	R
Increases the budgeted amount for the Pharmacy Benefit Management Contract to cover fees to administer a Medicare Part D Employer Group Waiver Plan (EGWP) that will reduce the State Health Plan's cost of drug coverage.	\$0	NR
	0.00	
Subtotal Legislative Changes	\$5,773,049	R
	\$10,200	NR
	3.00	

Receipts:

Increase Transfers from Trust Funds	\$5,773,049	R
Increases the amount of transfer from the Plan's health benefit trust fund budget codes to support administrative costs related to Medicare Part D Employer Group Waiver Plan (EGWP).	\$10,200	NR
Subtotal Legislative Changes	\$5,773,049	R
	\$10,200	NR

Revised Total Requirements	\$189,387,392
Revised Total Receipts	\$189,387,392
Change in Fund Balance	\$0
Total Positions	45.00

Unappropriated Balance Remaining	\$40,005
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CAPITAL

Section M

Capital

GENERAL FUND

Total Budget Approved 2011 Session

FY 12-13

\$0

Budget Changes

Department of Environment and Natural Resources

1 Water Resources Development Projects

Provides funds for the State's share of Water Resources Development Projects. Funds will provide a State match for \$86.39 million in federal funds. The projects are listed in a special provision.

\$5,000,000 NR

Department of Public Safety

2 Greensboro Readiness Center Renovation and Expansion

Provides funding for the renovation and expansion of the Greensboro Readiness Center, a National Guard facility, from funds available to the Department of Public Safety. The funds will match \$4,116,490 in federal funds. This project was authorized in S.L. 2012-145, Modifications/2012 Appropriations Act.

\$1,373,330 NR

Total Appropriation to Capital

\$6,373,330 NR

**INFORMATION
TECHNOLOGY
SERVICES
Section N**

Information Technology Fund

Budget Code: 24667

	FY 2012-13
Beginning Unreserved Fund Balance	\$582,975
Recommended Budget	
Requirements	\$6,183,142
Receipts	\$6,158,142
Positions	31.00

Legislative Changes

Requirements:

Information Technology Consolidation Reduction	\$0	R
Reduces IT Consolidation by \$312,953 and transfers that amount to the General Fund to reflect previous year OSBM reduction to the IT Fund.	(\$312,953)	NR
	0.00	
Provide Architecture and Engineering Strategists	\$270,000	R
Increases Architecture and Engineering funding to provide a Computer Strategist and a Network Strategist to build roadmaps and assessments to support Office of Information Technology Services systems and services deployments.	\$0	NR
	2.00	
Reduction to CGIA Appropriation	(\$137,476)	R
Reduces appropriation for the Center for Geographic Information and Analysis and transfers requirements to receipt support.	\$0	NR
	0.00	
Reduction to Enterprise Project Management Office	\$0	R
Reduces funding for Enterprise Project Management Office by \$70,000 to \$1,403,285.	(\$70,000)	NR
	0.00	
Increase Appropriation to CJIN	\$12,404	R
Increases appropriation to the Criminal Justice Information Network to include overhead costs.	\$0	NR
	0.00	
Reduction to ESRMO	\$0	R
Reduces funding to Enterprise Security Risk Management Office by \$38,000 to \$826,148.	(\$38,000)	NR
	0.00	

Conference Report on the Continuation, Capital and Expansion Budget

FY 2012-13

Funding for State Website	\$100,000	R
Provides funding to support current State website.	\$0	NR
	0.00	
Subtotal Legislative Changes	\$244,928	R
	(\$420,953)	NR
	2.00	

Receipts:

Information Technology Fund Interest	\$16,000	R
Accounts for the interest generated by the Information Technology Fund.	\$0	NR
Transfer to General Fund	\$0	R
Transfers portion of carryforward balance to the General Fund.	(\$750,000)	NR
Subtotal Legislative Changes	\$16,000	R
	(\$750,000)	NR

Revised Total Requirements	\$6,007,117
Revised Total Receipts	\$5,424,142
Change in Fund Balance	(\$582,975)
Total Positions	33.00

Ending Unreserved Fund Balance	\$0
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Information Technology Internal Service Fund

Budget Code: 74660

	FY 2012-13
Beginning Unreserved Fund Balance	\$34,643,121
Recommended Budget	
Requirements	\$189,626,312
Receipts	\$189,095,142
Positions	531.00

Legislative Changes

Requirements:

Reduction to IT Internal Service Fund	\$0	R
Requires the Office of the State Chief Information Officer and the Office of Information Technology Services to reduce requirements for the Information Technology Internal Service Fund to reflect a reduction of 24 positions (\$2,604,386), elimination of lease costs (\$491,302), hosting contract reduction (\$3,617,243), network service contract and allocation reductions (\$1,108,175), NCID cost reduction (\$703,000), allocation adjustments (\$2,238,115), and reduced purchased services costs (\$5,523,458).	(\$16,285,679)	NR
	-24.00	
Eliminated positions include: 60087660, 65010103, 60087301, 60087278, 65000716, 60087484, 60087378, 60087439, 60087526, 65000533, 60089793, 60087677, 60087592, 60087668, 65000051, 60087657, 60087672, 60087643, 60093435, 60087699, 60087637, 60087701, 60089800, 65000708.		
Transfer to General Fund	\$0	R
Transfers \$14 million in allowable receipts in excess of 40-day balance to the General Fund.	\$14,000,000	NR
	0.00	
Transfer for Federal Refund	\$0	R
Transfers federal match for General Fund transfer to appropriate agencies for return to the federal government.	\$2,800,000	NR
	0.00	
Subtotal Legislative Changes	\$0	R
	\$514,321	NR
	-24.00	

Receipts:

Reduction to IT Internal Service Fund	\$0	R
Reduces receipts for IT Internal Service Fund to reflect reduction in requirements.	(\$10,866,142)	NR
Reduction for EVAAS	\$0	R
Reduces payments by the Department of Public Instruction by \$850,000 and redirects the funding to the Education Value Added Assessment System.	(\$850,000)	NR
Reduction for CJLEADS	\$0	R
Reduces payments by the Office of the State Controller to the Information Technology Fund by \$2,379,000, and redirects the funding to the Criminal Justice Law Enforcement Automated Data Services.	(\$2,379,000)	NR
Subtotal Legislative Changes	\$0	R
	(\$14,095,142)	NR

Revised Total Requirements	\$190,140,633
Revised Total Receipts	\$175,000,000
Change in Fund Balance	(\$15,140,633)
Total Positions	507.00

Ending Unreserved Fund Balance	\$19,502,488
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NUMERICAL INDEX TO HOUSE AND SENATE BILLS

2011 GENERAL ASSEMBLY 2012 REGULAR SESSION

"Ratified Number" refers to the Session Law number except when preceded by an R, in which case it refers to the Resolution number.

HOUSE BILLS

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
5	3	589	20	1015	74
7	31	605	88	1018	48
14	57	614	155	1021	188
54	154	637	16	1023	191
149	38	660	19	1025	36
153	193	673	28	1028	65
176	39	707	18	1029	101
177	186	737	160	1032	61
180	138	741	33	1033	R2
199	46	778	7	1034	R3
203	150	799	196	1041	102
224	53	813	34	1044	176
235	40	819	202	1050	103
237	135	821	8	1051	104
244	192	837	197	1052	175
261	41	843	12	1055	66
278	139	853	172	1056	67
296	23	914	198	1059	105
302	15	925	11	1063	5
320	166	932	R6	1065	27
322	24	941	35	1066	68
328	25	943	54	1067	69
340	9	945	97	1068	70
345	14	950	142	1069	71
391	73	952	91	1071	106
437	10	953	201	1073	174
438	126	956	122	1074	185
457	167	963	98	1077	184
462	152	964	133	1081	72
490	42	966	13	1085	173
493	17	971	64	1087	107
494	146	987	99	1088	62
511	26	989	159	1090	108
512	127	991	100	1096	89
552	121	994	140	1105	157
572	169	1007	R4	1106	109
585	199	1009	203	1107	49

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
1108	50	1173	170	1207	55
1110	110	1181	189	1215	144
1114	181	1196	113	1216	118
1122	111	1197	114	1217	119
1123	112	1199	115	1223	R7
1133	51	1200	123	1224	R8
1138	63	1202	116	1233	R11
1169	124	1205	52	1234	141
1170	125	1206	117		

SENATE BILLS

<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>
42	158	661	87	830	22
77	92	699	182	836	162
94	132	707	149	841	80
105	165	724	77	847	194
133	180	727	1	848	94
141	168	738	183	859	47
187	145	745	4	865	R5
191	151	749	78	868	81
227	147	755	179	869	82
229	200	794	R1	876	137
236	29	797	2	881	83
347	128	798	90	889	44
416	136	799	21	890	84
426	156	803	178	895	85
443	120	804	130	900	95
444	164	806	37	901	96
491	75	810	187	906	30
518	76	813	93	910	153
521	163	815	131	919	58
525	171	816	56	929	45
572	86	818	32	932	59
582	6	820	143	934	60
635	148	821	190	951	177
647	161	824	43	958	R9
655	195	826	79	960	R10
656	129	828	134	961	R12

**INDEX TO SESSION LAWS
2011 GENERAL ASSEMBLY
REGULAR SESSION 2012**

Suggestions for Use: Local legislation appears under the name of the particular county or municipality. Legislation that amends or repeals another session law appears under “Laws Amended or Repealed” and under the particular subject. General appropriations appear under “Appropriations”. Specific appropriations or earmarks appear under the particular agency, entity, or subject. Boards, commissions, and committees appear as main entries. Numbers are alphabetized as spelled (i.e. 9 is listed alphabetically as “nine”). Session Law numbers (locators) are shown in standard citation format with the word “Section” replaced by the section symbol (§). Thus, “Session Law 145 Section 6A.10 subsection (a) through subsection (p)” would appear as “145§6A.10(a)-(p)”, and “Session Law 145 Section 28.31 through Section 28.31A” would appear as “145§§28.31-28.31A”. Noncontiguous Session Law sections are separated by a comma. Complete Session Law citations are separated by a semicolon.

A

ABC Boards (Local)

Pender County

Membership selection	125§1
Revenue distribution	125§3
Store requirement	125§2

Accounting and Auditing

Accounts receivable process	
exceptions for ECU	194§68(a)-(c)
Agency cost of audits published	142§§17.3-17.4
Contingency contracts for audits/ assessments prohibited	152;194§61.5(a)-(b)
DHHS Div. of Medical Assistance audit.....	142§10.9A(a)-(c); 145§3.3
Duplicate community college audit	
requirement repealed	142§8.4
Financial statements for publicly funded nonprofits	169
Occupational licensing boards exempt	
from paying for audits	142§17.1
Roanoke Island Commission audit	87
Special responsibility constituent institution audits	142§17.2

Acquired Immune Deficiency

Syndrome (AIDS)—see AIDS

(Acquired Immune Deficiency Syndrome)

Acupuncture Licensing Board—

appointments and membership	141§2.2
-----------------------------------	---------

Administration, Department of

AEDs in State buildings.....	198
Alternative fueled vehicles purchase	
and infrastructure task force	186§1(a)-(c)
Appropriations	
Building code review positions for State buildings	142§20.3

Administration, Department of—continued

Current operations	142§2.1
Sterilization Victims Foundation	145§5.1
Capital improvement projects.....	164§8
Division of Veterans Affairs	
Committal structure project.....	164§9
Governor's Management Council—	
see that heading	
Secretary's salary	142§25.02(a)-(b)
State-owned land and submerged land study	194§71.5(c)-(d)

Administrative Hearings, Office of

Appropriations-current operations.....	142§2.1
Civil Rights Division	
Duties and services study	142§19.1
Contested cases	187§§5-8.1
Personnel appeals.....	187§§8.2-8.7
Technical corrections, clarifications,	
and conforming changes.....	194§62.1

Administrative Office of the Courts

(AOC) (see also Courts)

Appropriations-national mortgage settlement	142§6.5(a)-(d)
Expunction of nonviolent felonies.....	191
Family court programs oversight.....	142§16.2
Foreign language interpreters	142§16.3(a)-(c)
Magistrate schedule management study	142§16.1
Salaries.....	142§25.1A(a)-(h)

Administrative Procedure Oversight**Committee, Joint Legislative—reestablished.....** 187§1**Administrative Rules**

1915(b)(c) waiver county withdrawal from LME	151§7(b)
Agency clarification and requirements	187§§2-4
Air Toxics Program rules do not apply	
to certain emissions sources	91
Child care facility nutrition rules	142§10.1(c1)
Combined returns and adjusted net	
income by Secretary of Revenue	43
Contested cases	187§§5-8.1
Dentistry management	195§3(a)
Division of Criminal Information Network.....	182§1
Establishing/increasing fees under budget	142§6.10(a)-(b)
Horizontal drilling and hydraulic fracturing.....	143§2(a)-(n)
Jordan and Falls Reservoir nutrient	
management strategies.....	187§12.1
Loss of public assistance for probation violator	170§2
Mining Commission continuity	143§1(c)
Mobile food unit sanitation requirements.....	187§16.2
Oil and gas exploration	143§2(a)-(n)
Private drinking wells setback variances.....	200§11(a)-(c)

Administrative Rules—continued

Review toxic air pollutant rules	91§3
Sanitary landfill permit duration and review periods	187§15.1
Scrap tire collector access to disposal site	200§14(a)-(b)
Section of Community Corrections	
intense supervision rule-making	83§9
Workers' compensation rule making for	
medical care fees	135§3

Adoption (see also Foster Care)

DHHS Block Grants	142§10.25(a), (o)
Disclosure of information	16§9
Expenses tax credit extended	36§9
Forms for parental social/medical history	16§4
Initiation of service of notice	16§3
Petition for adoption 30 day requirement	
repealed	16§1
Preplacement assessment requirements	16§7
Property value estimate requirement	
exemption	16§2
Prospective parent information	
confidentiality	16§5
Relinquishment	
Guardian ad litem execution to	
an agency	16§6
Rescinding	16§8

Adult Care Homes—see Nursing Homes**AdvantageWest North Carolina**—see

Western North Carolina Regional
Economic Development Commission

African-American Heritage Commission—

appointments and membership	141§§1.1, 2.3
-----------------------------------	---------------

Aging

Adult guardianship authorization for LMEs repealed	151§12(a)-(e)
Low-income home energy assistance block grant	142§10.25(y)

Agricultural Centers—see Agriculture**Agricultural Finance Authority**

Appointments and membership	141§§2.11(a)-(b), 1.2
Executive Director's salary	142§25.1(a)

Agricultural Research Stations—see Agriculture**Agriculture**

Certified Roadside Farm Market	
building code exemption	187§16.1
Cost share program and water resources	
assistance funds	142§11.2A(a)-(b)
Farm trailer/semitrailer exemption from registration	78§2
Header trailer registration exemption	78§3
Notice of rights in agricultural labor inspections	187§10.1(b)-(c)
Research Stations Fund established	142§11.4

Agriculture—continued

- Self-propelled equipment on interstates
authorization process 78§5
- State Emergency Operations plan
revision for agricultural matters 90§§5, 12
- Towing of vehicles impeding farmers'
market authority for Asheboro 105
- Weight limit exceptions for transporting certain products 78§6
- Western NC Agricultural Center
property conveyed to State 121§2.2(a)-(b)

Agriculture and Consumer Services,**Department of**

Appropriations

- Current operations 142§2.1
- Plant conservation program..... 142§26.9
- Soil and Water Conservation Division
Conservation Reserve Enhancement Program..... 145§4.3
- Transfer for environmental health..... 145§4.2
- Capital improvement projects..... 164§8

Commissioner

- Fisheries management agencies organization study 190§2(a)-(c)
- Salary 142§25.01(c)-(d)

Division of Research Stations

- Fund established 142§11.4

NC Forest Service

- B.R.I.D.G.E. Youthful Offenders
Program priority/reporting 142§11.1(a)-(b)

Position transfer for Wine and Grape

- Growers Council..... 145§4.5

Soil and Water Conservation Division

- Appropriations—see Appropriations,
this heading

Southeastern NC Agricultural Center

- and Farmers Market study 142§11.3(a)-(b)

State Emergency Operations plan

- revision for agricultural matters 90§§5, 12

Sustainable Local Food Advisory

- Council—see that heading

- TVA settlement funds use 200§20

- Wine and Grape Growers Council—see
that heading

**AIDS (Acquired Immune Deficiency
Syndrome)**

ADAP enrollment in Inclusive Health

- North Carolina 142§10.16(a)-(c)
- Prevention and community planning block grant..... 142§10.25(a);
145§3.1(c)

Airports and Airport Authorities—see Aviation

Alamance County	
Domestic violence/civil no-contact cases electronic filing pilot program sunset extended.....	142§16.4(a)-(b)
Orange County line.....	108
Alarm Systems —see Safety Equipment	
Alarm Systems Licensing Board —	
appointments and membership	141§1.3
Alcoholic Beverage Control	
Commission —chair's salary.....	142§25.1(a)
Alcoholic Beverages (see also Substance Abuse)	
ABC profits distribution in Granville County	49
Abstention as condition in visitation/custody.....	146§10
ALE Section Director's personnel authority	83§3
Beer franchise law clarifications	4
Bowles Center for Alcohol Studies funds	145§2.2
Fuel alcohol permit technical correction	201§10
Monitoring systems for pretrial release, probation, and mitigated punishments.....	146§§1-9
Technical corrections, clarifications, and conforming changes.....	194§45.5
Alleghany County	
Investing in Innovation grant.....	142§7.17(a)-(c)
New River cleanup report repealed	200§24
Alternative Energy	
Alternative fueled vehicles purchase and infrastructure study	186§1(a)-(c)
Electric vehicle charging stations at rest stops	186§2(a)-(d)
Renewable fuel facilities tax credit extended.....	36§2
Technical corrections, clarifications, and conforming changes.....	194§10
Waste kitchen grease collection regulation	127
Alternative Fuels —see Alternative Energy; Fuels	
Annexation	
Apex.....	109
Archdale and High Point swap	102
Davidson County commissioner approval.....	54
Deannexation	
Archdale and High Point swap.....	102
Burgaw	124§§1-2
Columbia	98
County zoning of deannexed areas	124§3
Matthews	110§1
Mooreville.....	137
Morganton	61
Repeal of certain involuntary annexations	3§§1-2, 4
Surf City	95
Woodfin and Asheville boundaries	119

Annexation—continued

Involuntary	
Moratorium for certain cities	3§3; 103; 104
Petition	3§5
Referendum required	11
Repeal of certain ordinances	3§§1-2, 4; 103; 104
Marion.....	97
Roanoke Rapids	116§1(a)-(c)
Satellite	
Cap removed for Ocean Isle Beach.....	96
Certain restrictions removed for Wallace	118
Stallings	110§1
Wilmington	138
Woodfin and Asheville adjust boundaries.....	119
Apartments —see Housing	
Apex, Town of	
Annexation.....	109
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Limit access to minors' information	139§1(a)-(b)
Appointments	
Appointments Bill.....	141
Governor's appointments	
Banking Commission, State	56§§4, 51-52
Commissioner of Banks	56§4
Human Trafficking Commission.....	142§15.3A(b)
Longitudinal Data System Board	133§1(a), (d)
Mining and Energy Commission	143§1(b), (g); 187§1.1
Statewide Portal Committee.....	142§6A.12(h)
Workforce Development, Commission on.....	131§1(a)-(b)
President Pro Tempore's appointments	
Acupuncture Licensing Board.....	141§2.2
African-American Heritage Commission	141§2.3
Agricultural Finance Authority	141§2.11(a)-(b)
Appraisal Board.....	141§2.12
Arboretum, Board of Directors	141§2.13
Athletic Trainer Examiners, Board of.....	141§2.14
Banking Commission, State	56§§4, 51-52; 141§2.26
Building Commission, State.....	141§2.27
Capital Facilities Finance Agency,	
Board of Directors.....	141§2.16
Cemetery Commission	120§3(b)
Center for the Advancement of	
Teaching, Board of Trustees	141§2.17

Appointments—continued

Chain of Survival Public-Private Task Force	198§2(a)
Child Care Commission	141§2.18(a)-(b)
Dietetics/Nutrition, Board of	141§2.15
Disciplinary Hearing Commission of the North Carolina State Bar	141§2.6
Domestic Violence Commission	141§2.7(a)-(b)
Education Opportunity for Military Children State Council, Commission on	141§2.8
Emergency Management Oversight Committee, Joint Legislative	90§6
Energy Policy, Joint Legislative Commission on	143§6(a)-(b)
Ethics Commission, State	141§2.36
Fee-Based Practicing Pastoral Counselors, Board of Examiners of	141§2.43
Geographic Information Coordinating Council	120§3.2
Heart Disease and Stroke Prevention Task Force, Justus-Warren	141§2.9
Human Trafficking Commission	142§15.3A(b)
Indigent Defense Services, Commission on	141§2.5
Interpreter and Transliterator Licensing Board	141§2.19(a)-(b)
Irrigation Contractors' Licensing Board	141§§2.20, 3.2
Judicial Council, State	141§2.37(a)-(b)
License to Give Trust Fund Commission	141§2.10
Locksmith Licensing Board	141§2.21
Longitudinal Data System Board	133§1(a), (d)
Lottery Commission, State	141§2.28(a)-(b)
Manufactured Housing Board	141§2.22
Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for	141§2.4
Mining and Energy Commission	141§2.23(a)-(b); 143§1(b), (g); 187§1.1
911 Board	141§2.1
Northeast Commission, North Carolina's	141§2.32
Nursing, Board of	141§2.42
Panel on Nongovernmental Competition	141§2.39
Parks and Recreation Authority	141§2.24
Ports Authority, State	141§2.29
Private Protective Services Board	141§2.33
Proprietary Schools, State Board of	141§2.35
Respiratory Care Board	141§2.25
Roanoke Island Commission	141§2.34
Statewide Portal Committee	142§6A.12(h)
Supplemental Retirement Board of Trustees	141§2.38

Appointments—continued

Teaching Fellows Commission	141§2.30
Transitions to Community Living, Blue Ribbon Commission on	142§10.23A(c)
Well Contractors Certification Commission	141§§2.40, 3.1
Western North Carolina Regional Economic Development Commission	141§2.41
Wildlife Resources Commission	141§2.31
Workers' Compensation Insurance Coverage Compliance and Fraud Prevention and Detection, Joint Legislative Committee on	135§8(a)
Workforce Development System Reform Oversight Committee, Joint Legislative	131§7(a)
Speaker's appointments	
African-American Heritage Commission	141§1.1
Agricultural Finance Authority	141§1.2
Alarm Systems Licensing Board	141§1.3
Arboretum, Board of Directors	141§1.4
Banking Commission, State	56§§4, 51-52
Brain Injury Advisory Council	141§1.5
Building Commission, State	141§1.6(a)-(b)
Cemetery Commission	120§3(b)
Centennial Authority	141§1.7
Chain of Survival Public-Private Task Force	198§2(a)
Child Care Commission	141§1.8
Clean Water Management Trust Fund, Board of Trustees	141§1.9
Code Officials Qualification Board	141§1.10
Cosmetic Art Examiners, Board of	141§1.45
Dietetics/Nutrition, Board of	141§1.11
Disciplinary Hearing Commission of the North Carolina State Bar	141§1.12(a)-(b)
Dispute Resolution Commission	141§1.13
Domestic Violence Commission	141§1.14
Economic Investment Committee	141§1.15
Education Commission of the States	141§1.16
Emergency Management Oversight Committee, Joint Legislative	90§6
Energy Policy, Joint Legislative Commission on	143§6(a)-(b)
Environmental Management Commission	141§1.17
Ethics Commission, State	141§1.18
Geographic Information Coordinating Council	120§3.2
Housing Partnership, North Carolina	141§1.19
Human Trafficking Commission	142§15.3A(b)

Appointments—continued

Indian Affairs, State Commission of.....	141§1.20
Indigent Defense Services, Commission on.....	141§1.21
Irrigation Contractors' Licensing Board.....	141§1.22
Judicial Council, State.....	141§1.40
License to Give Trust Fund Commission.....	141§1.23
Locksmith Licensing Board.....	141§1.24
Longitudinal Data System Board.....	133§1(a), (d)
Lottery Commission, State.....	141§1.25
Manufactured Housing Board.....	141§1.26
Massage and Bodywork Therapy, Board of.....	141§1.27
Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for.....	141§1.28
Mining and Energy Commission.....	141§1.29(a)-(b); 143§1(b), (g); 187§1.1
911 Board.....	141§1.30(a)-(b)
Northeast Commission, North Carolina's.....	141§1.31
On-Site Wastewater Contractors and Inspectors Certification Board.....	141§1.32
Parks and Recreation Authority.....	141§1.33
Ports Authority, State.....	141§1.34
Private Protective Services Board.....	141§1.35
Respiratory Care Board.....	141§1.36
Roanoke Island Commission.....	141§1.37
Rules Review Commission.....	141§1.38
Sheriffs' Education and Training Standards Commission.....	141§1.39
Statewide Portal Committee.....	142§6A.12(h)
Supplemental Retirement Board of Trustees.....	141§1.41
Teaching Fellows Commission.....	141§1.42
Transitions to Community Living, Blue Ribbon Commission on.....	142§10.23A(c)
Turnpike Authority.....	141§1.46
Veterinary Medical Board.....	120§3.1; 141§1.43
Well Contractors Certification Commission.....	141§1.44
Workers' Compensation Insurance Coverage Compliance and Fraud Prevention and Detection, Joint Legislative Committee on.....	135§8(a)
Workforce Development System Reform Oversight Committee, Joint Legislative.....	131§7(a)
UNC Board of Governors' appointments UNC Health Care System, Board of Directors.....	174

Appraisal Board

Appointments and membership	141§2.12
Appraisal management company report to Revenue Dept.	65
Broker price opinions	163§§2-5; 194§61

Appropriations (see also Budgeting and
Budget Process; Funds and Accounts;
particular agency)

Capital appropriations	
General Fund	142§26.1
Certified budget modifications	142§6.9
Current Operations and Capital Improvements Appropriations Act	142
Current operations and expansion	
General Fund	142§2.1; 145§1.1
DHHS Block Grants	142§10.25(a)-(f)
General Fund	
Availability	142§2.2(a)-(j); 145§1.1A(a)
Capital appropriations	142§26.1
Current operations	142§2.1
Highway Fund transfer	142§24.13
Transfer from Information Technology Fund	142§6A.1
Golden L.E.A.F diversion	145§1.1A(a)-(b)
Highway Fund	
Availability statement	142§3.2
Cash flow appropriations	142§24.1(b)
Current operations	142§3.1
Highway Trust Fund	
Availability statement	142§4.2
Cash flow appropriations	142§24.1(c)
Current operations	142§4.1
National mortgage settlement	142§6.5(a)-(d)
Repairs and Renovations Reserve Account	
Allocations	142§26.4(a)-(c)
OSBM allocations	142§26.11
Transfer for Medicaid	57
Reserves, adjustments and debt service	142§2.1
Water resources development projects	166

Aquariums—see Zoos and Aquariums**Arboretum, Board of Directors**—

appointments and membership	141§§1.4, 2.13
-----------------------------------	----------------

Archdale, City of—deannexation/

annexation with High Point	102
----------------------------------	-----

Armed Forces

Clean Water Management Trust	
Fund use for US DoD initiatives	142§12.7(b)
Lease termination for deceased service member	64
Licensure by endorsement for military personnel and spouses	196
Military One-Stop & BRAC Outreach program transfer	142§9.7
Military veteran drivers license notation implementation	85§2
Motorcycle safety program insurance discount.....	176
National Guard	
Technical corrections, clarifications, and conforming changes	194§26
Needs of students with family in the military	
Identification	194§55(c)
Report repealed	194§55(a)-(c)
UNC Partnership for National Security.....	142§9.13
Veterans	
Committal structure project, Sandhills Cemetery	164§9
Tuition cost study	142§9.1
Arts —see Cultural Resources	
Ashe County —New River cleanup	
report repealed	200§24
Asheboro, City of —towing of vehicles	
impeding farmers' market authority	105
Asheville, City of	
Adjust boundaries with Woodfin.....	119
Intergovernmental agreements for services with Woodfin.....	119§5
Regional Airport Authority	
Created	121§§1.1-1.13
No public official as member	194§69.1
Zoning jurisdiction removed	121§2.1(a)-(b)
Repeal of involuntary annexation.....	3§§1-2, 4
UNC-Asheville—see University of North Carolina	
Western NC Agricultural Center	
property conveyed to State	121§2.2(a)-(b)
Athletic Trainer Examiners, Board of —	
appointments and membership	141§2.14
Atkinson, Town of	
ABC revenue distribution	125§3
ABC store requirement.....	125§2
Attorney General	
Attorney activity biannual reporting.....	142§15.2
Salary	142§25.01(c)-(d)

Attorneys (see also Courts)—itemized
 billing by Justice Dept. for services
 provided to agencies 142§15.1

Auditor, State—see State Auditor, Department of

Audits and Auditing—see Accounting
 and Auditing

Authorities
 Agricultural Finance Authority—see
 that heading
 Airport authorities—see Aviation
 Butner Public Safety Authority—see
 that heading
 Centennial Authority—see that heading
 Global TransPark Authority—see that
 heading
 Parks and Recreation Authority—see
 that heading
 Ports Authority, State—see that heading
 Tourism Development Authorities—see
 Travel and Tourism
 Turnpike Authority—see that heading

Avery County—TVA settlement funds use..... 200§20

Aviation
 Airport authorities
 Goldsboro-Wayne Airport Authority
 dissolved..... 26
 Greater Asheville Regional Airport
 Authority
 Created 121§§1.1-1.13
 No public official as member 194§69.1
 Zoning jurisdiction removed..... 121§2.1(a)-(b)
 Halifax-Northampton Regional
 Airport Authority powers amended 116§2(a)-(b)
 New Hanover County
 Commissioners accountable for
 Airport Authority work 10
 Alternative stormwater control at
 airports 200§6
 Civil Air Patrol
 Technical corrections, clarifications,
 and conforming changes 83§46
 Passenger air carrier fuel tax refund
 Extended..... 36§11(a)
 Interstate 74§3(a)-(c)

Ayden, Town of
 Eastern Municipal Power Agency
 Public meeting prior to rate changes 167
 Revenue use..... 181

B

B. Everett Jordan Reservoir —nutrient management strategies	187§12.1
Bail and Bail Bondsmen (see also Courts; Surety and Fidelity)—Bail Agents Association sole source for training.....	183
Bald Head Island, Village of —Area of Environmental Concern study	202§4
Banking Commission, State	
Appointments and membership	56§§4, 51-52; 141§2.26
Commissioner's salary	142§25.1(a)
Reauthorized	56§4
Salaries.....	142§25.2
Banking Laws Modernization Act	56
Barbers and Cosmetologists —natural hair care licensure deadline extended	194§71.6
Beach Nourishment and Replenishment (see also Coastal Resources)	
Erosion control structures report	201§2(a)-(b)
Local sales tax option study.....	189§1
Beaufort County	
Belhaven, Town of—see that heading	
Coastal area county designation	202§1
Investing in Innovation grant.....	142§7.17(a)-(c)
Washington, City of—see that heading	
Belhaven, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Belmont, City of —Gaston College	
Kimbrel Campus multicampus site.....	142§8.10
Benson, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Bertie County —coastal area county designation	202§1
Bids and Bidding —see Contracts and Purchasing	
Biofuels —see Alternative Energy; Fuels	
Biofuels Center of North Carolina	
Funds reduction	142§13.12A; 145§4.6
TVA funds	145§4.7
Biotechnology Center, North Carolina	
Appropriations-current operations.....	142§2.1
Funds reduction	142§13.12B

- Bladen County**—Lower Cape Fear Water and Sewer Authority design-build water transmission line 60
- Blind and Visually Impaired**—see Disabled Persons
- Blue Ribbon Commission on Transitions to Community Living**—see Transitions to Community Living, Blue Ribbon Commission on
- Board of Correction**—see Correction, Board of
- Board of Cosmetic Art Examiners**—see Cosmetic Art Examiners, Board of
- Board of Dietetics/Nutrition**—see Dietetics/Nutrition, Board of
- Board of Directors of the Capital Facilities Finance Agency**—see Capital Facilities Finance Agency, Board of Directors
- Board of Directors of the North Carolina Arboretum**—see Arboretum, Board of Directors
- Board of Examiners of Fee-Based Practicing Pastoral Counselors**—see Fee-Based Practicing Pastoral Counselors, Board of Examiners of
- Board of Massage and Bodywork Therapy**—see Massage and Bodywork Therapy, Board of
- Board of Nursing**—see Nursing, Board of
- Board of Transportation**—see Transportation, Board of
- Board of Trustees of the Center for the Advancement of Teaching**—see Center for the Advancement of Teaching, Board of Trustees
- Board of Trustees of the Clean Water Management Trust Fund**—see Clean Water Management Trust Fund, Board of Trustees
- Boards**—see Committees, Commissions, Councils, and Boards; particular board
- Boards of Education (Local)**—see Education, Boards of (local)
- Boats and Boating**—vessel titling fees study 190§1(a)-(c)
- Bonds and Bonding**—see Surety and Fidelity
- Bonds and Notes**—see Debt-Local Government; Debt-State Government
- Boone, City of**
Appalachian State University—see University of North Carolina
- Boundaries (Geographic)**—see Geography
- Boundaries (Political)**—see Redistricting
- Brain Injury Advisory Council**—appointments and membership 141§1.5
- Bridges**—see Roads and Highways

Brunswick County

Bald Head Island, Village of—see that heading	
Caswell Beach, Town of—see that heading	
Coastal area county designation	202§1
Lower Cape Fear Water and Sewer Authority design-build water transmission line	60
Ocean Isle Beach, Town of—see that heading	
Southport, City of—see that heading	
Taking of Menhaden and Atlantic Thread Herring prohibited	190§3(b)

Budget and Management, Office of State

Appropriations

Current operations	142§2.1
Integrated Budget Information System	142§22.2
NC Symphony	142§22.1
Reclassify vacant positions	142§22.2
Repairs and renovations projects	142§26.11
Repairs and Renovations Reserve Account allocations	142§26.4(a)
Transfer from Information Technology Fund	142§6A.1
Block grant changes approval.....	142§10.25(e)
Combined motor vehicle registration and property tax collection system.....	142§24.10(a)-(c)
Draw down and transfer of funds restriction	2§2
IT position transfer	142§6A.1
Medicaid funding.....	2§1(a)-(c)
Monitor salary increases	142§25.2B
Reports—see that heading	
Wildlife Resources Commission budget code.....	142§12.6

Budgeting and Budget Process (see also Appropriations)

Aquarium budgeting clarification.....	142§12.8
Availability of appropriations contract clause.....	142§6.13(a)-(c)
Capital project reporting	142§26.5(a)-(c)
Certified budget modifications	142§6.9
Draw down and transfer of funds restriction.....	2§2
Management flexibility reductions to cover Medicaid shortfalls	142§6.14(a)-(b); 145§1.2
Medicaid appropriations contingent on adequacy of funding	142§10.9G
Position allotments for schools.....	142§7.18(a)-(b); 145§2.4(a)-(b)
Technical corrections, clarifications, and conforming changes.....	194§34
Transportation civil penalties treated as receipts.....	142§24.9
Wildlife Resources Commission budget code.....	142§12.6

Building Codes

Building code review positions for	
State buildings	142§20.3
Certified Roadside Farm Market exemption	187§16.1
Fire code inspection of public buildings	
time period.....	161§2
Inspection exemption for certain	
industrial machinery	34
Wading pool fence compliance	
effective date	187§14(a)-(b)

Building Commission, State—

appointments and membership	141§§1.6(a)-(b), 2.27
-----------------------------------	--------------------------

Buildings

AEDs in State buildings.....	198
Building code review positions for	
State buildings	142§20.3
Fire code inspection of public buildings	
time period.....	161§2

Buncombe County

Asheville, City of—see that heading	
Greater Asheville Regional Airport	
Authority	
Created	121§§1.1-1.13
No public official as member	194§69.1
TVA settlement funds use	200§20
Woodfin, Town of—see that heading	

Burgaw, Town of

ABC store	
Requirement	125§2
Revenue distribution	125§3
Deannexation	124§§1-2

Burke County

Morganton, City of—see that heading	
TVA settlement funds use	200§20

Buses—see Education; Public

Transportation

Butner Public Safety Authority

Fire and police	
Authority includes town.....	50§1
Protection contract.....	50§3

Butner, Town of

ABC profits distribution	49
Corporate limits described.....	117
Delinquent stormwater utility fee	
collection	55§2
Fire and police protection by	
Authority.....	50§1

C

- Calendar (School)**—see Education; particular County
- Camden County**
 Coastal area county designation 202§1
 Convey certain AMHC property to ECBH..... 113
- Cape Fear River**—Area of Environmental
 Concern study 202§4
- Capital Facilities Finance Agency,
 Board of Directors**—appointments and
 membership..... 141§2.16
- Capital Punishment**
 Governor and Council of State
 approval of protocols repealed 136§1
 RJA hearing procedures, rules, and application 136§§3-8
 Rule 24 time requirements failure 136§2
- Carbon Monoxide Detectors**—see Safety Equipment
- Carolina Beach, Town of**—renourishment project..... 166
- Carolinas Partnership, Inc.**—allocation 142§13.12;
 145§4.8
- Carteret County**
 Coastal area county designation 202§1
 County Commissioners redistricting allowed..... 58
- Cary, Town of**—limit access to minors' information 139§1(a)-(b)
- Cash Converters**—see Loans
- Caswell Beach, Town of**—Area of
 Environmental Concern study 202§4
- Cellular Phones**
 Mobile electronic device agency report..... 142§6A.7
 Use of mobile telephone/device by
 motor carrier unlawful 78§9
- Cemetery Commission**
 Appointments and membership 120§3(b)
 Powers and duties 120§3(c)-(h)
 Removed from Commerce Dept..... 120§3(a), (g)-(h)
- Centennial Authority**
 Appointments and membership 141§1.7
- Center for Geographic Information
 and Analysis**—see Information
 Technology Services, Office of
- Center for the Advancement of
 Teaching, Board of Trustees**—
 appointments and membership 141§2.17
- Chain of Survival Public-Private
 Task Force**—created..... 198§2(a)-(c)
- Chapel Hill, City of**
 UNC-Chapel Hill—see University of North Carolina
- Charlotte, City of**
 UNC-Charlotte—see University of North Carolina

Charters —Durham additional bases for assessments	94
Chatham County	
Board of adjustment membership in Chatham County	194§70.5(b)
Limit access to minors' information in local government programs	194§70.5(b)
Cherokee County —TVA settlement funds use.....	200§20
Chief Information Officer —see State	
Chief Information Officer	
Child Abuse and Neglect	
Carousel Center for Abused Children block grant	142§10.25(a), (v)
Child advocacy centers block grant.....	142§10.25(w1)
Child Care —see Day Care	
Child Care Commission	
Appointments and membership	141§§1.8, 2.18(a)-(b)
Child care facility nutrition rules	142§10.1(c1)
Child Custody and Support	
Abstention from alcohol as condition in visitation/custody.....	146§10
Adoption—see that heading	
Foster Care—see that heading	
Technical corrections, clarifications, and conforming changes.....	194§2
Termination of parental rights to include sex offense resulting in conception	40
Termination of support for child in early college program	20§2
Child Support —see Child Custody and Support	
Chowan County	
Coastal area county designation	202§1
Edenton, Town of—see that heading	
Civil Actions	
Mechanics lien on real property	158; 175; 194§65.3(b)-(c)
Oil and gas exploration landowner and public protections.....	143§4(a)-(i); 201§12(d)
Civil Procedure —no contact order service	
19	
CJRS (Consolidated Judicial Retirement System) —see Retirement	
Clay County	
Old courthouse renovation/lease exemptions	32
TVA settlement funds use	200§20
Clayton, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181

Clean Coastal Water and Vessel Act	78§17
Clean Water Management Trust Fund, Board of Trustees	
Appointments and membership	141§1.9
Appropriations-administration.....	142§12.7(a)
US DoD initiatives.....	142§12.7(b)
Cleveland County	
Correctional facility transfer to community college	177§§1-3
Shelby, City of—see that heading	
Coastal Resources	
Area of Environmental Concern study	202§4
Beach nourishment and replenishment— see that heading	
Clean Coastal Water and Vessel Act applies to ferries	78§17
Coastal area counties designated	202§1
Development permit setback requirement	202§3(a)-(b)
Ferry toll clarification	142§24.18(a)-(b); 145§6.2
Fisheries—see that heading	
Inlet Hazard Area of Environmental Concern elimination study.....	202§5
New pier construction and satellite areas by aquariums prohibited.....	142§12.5(a)-(e)
Port enhancement zone technical correction	74§6(a)-(b)
Ports—see that heading	
Sea-level rise.....	202§2(a)-(c)
Water resources development projects funds	142§26.2(a)-(f)
Coastal Resources Commission	
Area of Environmental Concern study	202§4
Coastal area counties designated	202§1
Development permit setback requirement	202§3(a)-(b)
Inlet Hazard Area of Environmental Concern elimination study.....	202§5
Reports—see that heading	
Sea-level rise.....	202§2(a)-(c)
Code Officials Qualification Board—	
appointments and membership	141§1.10
Colleges and Universities (see also Community Colleges; University of North Carolina)	
Financial aid technical correction.....	142§9.2(a)-(d)
Independent Colleges and Universities collaborating agency in teacher preparation.....	77§1
Scholarships for private institutions funds	142§9.2(d)
Student data disclosure by private institutions	133§3
Teacher preparation	77§1
Columbia, Town of—deannexation	98

Columbus County —Lower Cape Fear	
Water and Sewer Authority design- build water transmission line	60
Commerce (see also Economic Development)	
Beer franchise law clarifications	4
Building code inspection exemption for certain industrial machinery	34
Business licenses issued report	187§10.3
Certified Roadside Farm Market building code exemption	187§16.1
Coastal fishing license and vessel titling fees study	190§1(a)-(c)
Commercial drivers license hazardous materials endorsement expiration	85§3
Delegate authority to regulate taxis in Kinston	139§2(a)-(b)
Enterprise-level business intelligence initiative	142§6A.7A(a)-(h)
Intrastate motor carriers to be marked	41
Port Enhancement Zone definition change	187§15.2(a)-(b)
Pseudoephedrine transaction limits	35§1
Regulation of sales and purchases of metals	46§28
Seafood industrial park tier one designation extended	36§1
Sealed ship containers non-divisible load rules	78§§15-16
Secured transactions	70
Tax credits—see Taxes and Assessments	
Taxes and assessments—see that heading	
Use of mobile telephone/device by motor carrier unlawful	78§9
Commerce, Department of	
Align One North Carolina Fund with JDIG Program	142§13.6(a)-(h)
Appropriations	
Community Development Block Grant	142§13.1
Current operations	142§2.1; 145§1.1
Division of Employment Security	
Employment Security Reserve Fund	142§13.8(a)-(f)
Interest on debt to US Treasury	142§13.8(f)
Low-income home energy assistance block grant	142§10.25(a), (x)-(y)
NER block grants	142§13.1
State technical assistance	142§13.1
Biofuels Center of North Carolina—see that heading	
Biotechnology Center, North Carolina—see that heading	
Cemetery Commission removed	120§3(a), (g)-(h)
Division of Employment Security	
Appropriations—see Appropriations, this heading	
Board of Review Chair's salary	142§25.1(a)

Commerce, Department of —continued	
Board of Review member's salary.....	142§25.1(a)
Loss of public assistance for probation violator rules	170§2
NC Facts Program	134§6(a)-(b)
Technical corrections, clarifications, and conforming changes	134§5(a)-(f)
Grassroots Science Program funding reductions.....	142§13.11
Industrial Development Fund sewer improvement use in adjoining counties.....	74§4
Labor and Economic Analysis Division Technical corrections, clarifications, and conforming changes	134§5(a)-(f)
Local and regional workforce development coordination.....	131§2-3
One North Carolina Fund funding study	142§13.6(d)
Position transfer for Wine and Grape Growers Council	145§4.5
Reports—see that heading	
Rural Economic Development Center—see that heading	
Secretary's salary	142§25.02(a)-(b)
State Energy Office Alternative fueled vehicles purchase and infrastructure task force.....	186§1(a)-(c)
Technical corrections, clarifications, and conforming changes.....	201§9
Travel expenses	142§13.2
Wine and Grape Growers Council—see that heading	
Workforce development Common follow-up management system.....	131§4(a)-(b)
Internet-based intake system	131§5(a)-(b)
Commercial Fishing —see Fisheries	
Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services —see Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for	
Commission for Public Health —see Public Health, Commission for	
Commission on Education Opportunity for Military Children State Council —see Education Opportunity for Military Children State Council, Commission on	
Commission on Indigent Defense Services —see Indigent Defense Services, Commission on	
Commission on Workforce Development — see Workforce Development, Commission on	
Commissioner of Banks (see also Banking Commission, State)—appointment.....	56§4
Commissions —see Committees, Commissions, Councils, and Boards; particular commission	

- Committee on Dropout Prevention**—see
Dropout Prevention, Committee on
- Committees, Commissions, Councils, and Boards**
- Acupuncture Licensing Board—see that heading
 - Administrative Procedure Oversight
Committee, Joint Legislative—see that heading
 - African-American Heritage Commission—see that heading
 - Alarm Systems Licensing Board—see that heading
 - Appraisal Board—see that heading
 - Arboretum, Board of Directors—see that heading
 - Athletic Trainer Examiners, Board of—see that heading
 - Banking Commission, State—see that heading
 - Brain Injury Advisory Council—see that heading
 - Building Commission, State—see that heading
 - Capital Facilities Finance Agency, Board
of Directors—see that heading
 - Cemetery Commission—see that heading
 - Center for the Advancement of Teaching,
Board of Trustees—see that heading
 - Child Care Commission—see that heading
 - Clean Water Management Trust Fund,
Board of Trustees—see that heading
 - Code Officials Qualification Board—see that heading
 - Community Colleges, State Board of—see that heading
 - Correction, Board of—see that heading
 - Cosmetic Art Examiners, Board of—see that heading
 - Criminal Justice Education and
Training Standards Commission—see that heading
 - Dental Examiners, State Board of—see that heading
 - Dietetics/Nutrition, Board of—see that heading
 - Disciplinary Hearing Commission of the
North Carolina State Bar—see that heading
 - Dispute Resolution Commission—see that heading
 - Domestic Violence Commission—see that heading
 - Economic Investment Committee—see that heading
 - Education, Boards of (local)—see that heading
 - Education Commission of the States—at heading
 - Education Opportunity for Military
Children State Council, Commission
on—see that heading
 - Education, State Board of—see that heading
 - Energy Policy, Joint Legislative
Commission on—see that heading
 - Environmental Management
Commission—see that heading
 - Ethics Commission, State—see that heading
 - Fee-Based Practicing Pastoral
Counselors, Board of Examiners of—see that heading

Committees, Commissions, Councils, and Boards—continued

Firemen's Local Relief Fund Board of Trustees residency requirement.....	45
Geographic Information Coordinating Council—see that heading	
Governor's Crime Commission—see that heading	
Governor's Management Council—see that heading	
Heart Disease and Stroke Prevention Task Force, Justus-Warren—see that heading	
Indian Affairs, State Commission of—see that heading	
Indigent Defense Services, Commission on—see that heading	
Industrial Commission—see that heading	
Innocence Inquiry Commission—see that heading	
Interpreter and Transliterator Licensing Board—see that heading	
Irrigation Contractors' Licensing Board—see that heading	
Judicial Council, State—see that heading	
Legislative Ethics Committee—see that heading	
Legislative Research Commission—see that heading	
License to Give Trust Fund Commission—see that heading	
Local Government Employees Retirement System (LGERS), Board of Trustees—see that heading	
Locksmith Licensing Board—see that heading	
Lottery Commission, State—see that heading	
Manufactured Housing Board—see that heading	
Massage and Bodywork Therapy, Board of—see that heading	
Medical Board—see that heading	
Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for—see that heading	
Mining and Energy Commission—see that heading	
Museum of Art, Board of Trustees—see that heading	
911 Board—see that heading	
Northeast Commission, North Carolina's—see that heading	
Nursing, Board of—see that heading	
Occupational licensing boards exempt from paying for audits	142§17.1
On-Site Wastewater Contractors and Inspectors Certification Board—see that heading	
Partnership for Children, Inc., Board of Directors—see that heading	
Private Protective Services Board—see that heading	

Committees, Commissions, Councils, and Boards—continued

- Program Evaluation Oversight
 - Committee, Joint Legislative—see that heading
- Proprietary Schools, State Board of—see that heading
- Public Health, Commission for—see that heading
- Real Estate Commission—see that heading
- Regional Economic Development
 - Commissions funding and alignment study—see particular commission
- Respiratory Care Board—see that heading
- Roanoke Island Commission—see that heading
- Rules Review Commission—see that heading
- Sheriffs' Education and Training
 - Standards Commission—see that heading
- Soil and Water Conservation
 - Commission—see that heading
- Statewide Portal Committee—see that heading
- Supplemental Retirement Board of Trustees—see that heading
- Sustainable Local Food Advisory Council—see that heading
- Teachers' and State Employees' Retirement System (TSERS), Board of Trustees—see that heading
- Teaching Fellows Commission—see that heading
- Transitions to Community Living, Blue Ribbon Commission on—see that heading
- Transportation, Board of—see that heading
- UNC Board of Governors—see that heading
- UNC Health Care System, Board of Directors—see that heading
- Utilities Commission—see that heading
- Veterinary Medical Board—see that heading
- Well Contractors Certification
 - Commission—see that heading
- Western North Carolina Regional Economic Development Commission—see that heading
- Wildlife Resources Commission—see that heading
- Wine and Grape Growers Council—see that heading
- Workers' Compensation Insurance Coverage Compliance and Fraud Prevention and Detection, Joint Legislative Committee on—see that heading

Committees, Commissions, Councils, and Boards—continued

Workforce Development, Commission

on—see that heading

Workforce Development System

Reform Oversight Committee, Joint

Legislative—see that heading

Community College System Office

Appropriations

Carryforward for equipment 142§8.2(a)-(d)

Current operations 142§2.1

North Carolina Back-to-Work program 142§8.10A

Parking fine increase..... 142§8.9

Workforce initiatives program ended 131§6

Community Colleges

Cleveland County Community College

Correctional facility transfer 177§§1-3

Cooperative Innovative High Schools clarification 142§7.11(a)-(i)

Davidson County Community College

Cooperative innovative high school pilot program..... 142§7.10

Yadkin Valley Regional Career Academy

Authorized 48

Pilot program 142§7.10

Duplicate audit requirement repealed..... 142§8.4

Durham Technical Community College

Gateway to college pilot..... 142§8.7(a)-(c)

Federal loan program opt out..... 31

Financial aid administrative costs..... 142§8.11(b)-(c)

Forfeiture of retirement benefits for

certain felonies..... 193§12

Gaston College

Kimbrel Campus multicampus site 142§8.10

Institutional performance accountability 142§8.6

Investing in Innovation grant..... 142§7.17(a)-(c)

Multicampus and off campus center

report repealed 142§8.3(a)

North Carolina Back-to-Work program 142§8.10A

Parking fine increase..... 142§8.9

Performance standards..... 142§8.5

Permanent plate eligibility limited 159

Salaries..... 142§25.1C(a)-(b)

Separate juice and water bids for

education entities repealed 89

Tuition waiver for certain emergency personnel..... 142§8.8

Wake Technical Community College

Board membership eligibility..... 99

Yadkin Valley Regional Career Academy

Authorized..... 48

Pilot program..... 142§7.10

Community Colleges, State Board of	
Appropriations-financial aid	
administrative costs	142§8.11(b)-(c)
Gaston College Kimbrel Campus	
multicampus site	142§8.10
Gateway to college pilot	142§8.7(a)-(c)
Institutional performance accountability	142§8.6
Learn and Earn high school workforce	
development evaluation repealed	142§7.13(a)
Performance standards	142§8.5
Salaries	142§25.1C(a)-(b)
Teacher preparation	77§1
Technical corrections, clarifications, and conforming changes	83§41
Yadkin Valley Regional Career Academy authorized	48
Compacts —see Interstate Cooperation	
Computers and Office Technology — see Information Technology	
Confidentiality —see Privacy	
Conservation —see Environment	
Consolidated Judicial Retirement System (CJRS) —see Retirement	
Construction (see also Contracts and Purchasing)	
Pre-construction activities privatization	
for transportation projects	142§24.2
Recycled asphalt use	8
Unhardened ready mixed concrete weight limit exemption	78§13
Consumer and Family Advisory Committees (Local) —third term authorized	
	151§5
Consumer Protection —Fund retained	
amount increase	142§20.2
Continuing Education —see Professional Education	
Contracts and Purchasing	
Alternative fueled vehicles purchase and infrastructure study	186§1(a)-(c)
Availability of appropriations clause	142§6.13(a)-(c)
Butner fire and police protection contract	50§3
Contingency contracts for audits/ assessments prohibited	152; 194§61.5(a)-(b)
Delegation of Transportation Boards's highway construction authority to Secretary	84§1
Design-build	
Davidson County	63
Lower Cape Fear Water and Sewer Authority water transmission line	60

Contracts and Purchasing—continued

Rockingham County.....	140
Union County law enforcement/ human services facilities	59
Election system maintenance contracts	142§23.3(a)-(c)
Family planning services	142§10.12
I-77 high occupancy toll project	184
IT contractors/personnel contracts reporting	142§6A.4
IT services privatization	142§6A.6(a)-(c)
Legislative approval for prison health care	2§3
Medicaid	
Nonemergency medical transportation RFP	142§10.7(a)-(d)
Outpatient imaging services	142§10.9D(a)-(b)
NC Pre-K multi-year contracts	142§10.1(a)
No use of foreign vendors refusing to collect use tax	79§2.14
Old Clay County courthouse renovation/ lease exemptions.....	32
Pre-construction activities privatization for transportation projects.....	142§24.2
Proprietary Schools Board powers and duties	142§8.9A(a)-(c)
Road maintenance/construction bids not public record.....	78§11
Separate juice and water bids for education entities repealed	89
"Shareholder" definition for potential lottery contractors	194§64
Special responsibility constituent institution audits	142§17.2
State Railroad study outside consultant authorization for PED repealed	194§71.5(b)
Tax Information Management System public-private partnership.....	142§6A.3(a)-(k)
Technical corrections, clarifications, and conforming changes.....	83§45
UNC liability insurance purchase	142§9.15
Volunteer Safety Workers Compensation Fund assessment	142§20.4(a)-(b)
Controlled Substances (see also Narcotics; Pharmaceuticals)	
Pseudoephedrine	
Transaction ID and recordkeeping clarification.....	35§2
Transaction limits.....	35§1
Synthetic cannabinoids unauthorized substance tax.....	79§2.2(a)-(b)
Technical corrections, clarifications, and conforming changes.....	194§60.5
Controller, State —see State Controller, Office of	

Conveyances —see Sales and Conveyances	
Cornelius, Town of —occupancy, food and beverage tax distribution.....	194§69
Corporations, For-Profit (see also Commerce)	
Dentistry management arrangements	195
Holding company definition	79§2.3
Mutual insurance holding companies	161§1
Small business	
Community Development Block Grant	142§13.1
NC Real funds	142§13.9
Taxes and assessments—see that heading	
Corporations, Nonprofit	
March of Dimes block grant	142§10.25(a)
ALS Association block grant.....	142§10.25(a), (s1)
Boys and Girls Clubs block grant.....	142§10.25(a), (q)
Charitable Licensing Division fees treatment	142§21.1
Charitable residential treatment facility licensure exemption	15§1
Community health grant funding.....	142§10.13(a)-(b)
Education employee associations access	179
Financial statements for public funding	169
Friends of Elizabeth II, Inc. audit	87
Homeowners' and community associations	157
Nonprofit organizations funding	
reduction by DHHS	142§10.18(a)-(b)
Permanent plate eligibility limited	159
Protected natural area tax technical correction.....	79§1.9
Taxes and assessments—see that heading	
Volunteer health care services	155; 194§47(a)-(c)
Correction, Board of —technical corrections, clarifications, and conforming changes	83§53
Correctional Institutions	
B.R.I.D.G.E. Youthful Offenders	
Program priority/reporting.....	142§11.1(a)-(b)
Cleveland County Correctional Facility	
Transfer to Cleveland County Community College	177§§1-3
Haywood Correctional Center	
Transfer to Haywood County	177§§3.1-3.3
Inmate medical costs.....	142§14.2(a)-(b)
Juvenile detention home inspection.....	172§2
Juvenile facilities standards local compliance.....	172§4
Legislative approval for prison health care contracts.....	2§3
Parole and Probation—see that heading	
Reimprisonment for violation of post-release supervision.....	188§4
Release dates.....	142§14.1
Youth Development Centers	
Edgecombe Center uses study.....	142§14.9
Staffing treatment model repealed	142§14.5
Strategic plan.....	142§14.8

Cosmetic Art Examiners, Board of	
Appointments and membership	141§1.45
Natural hair care licensure deadline extended.....	194§71.6
Council of Government —funds.....	142§13.10
Council of State (see also particular office)	
Approval of capital punishment protocols repealed.....	136§1
IT services privatization	142§6A.6(a)
Councils —see Committees, Commissions, Councils, and Boards; particular council	
Counseling —see Mental Health; Psychologists	
Counties (see also Local Government; Municipalities)	
Boundary between Swain and Graham	
Counties clarified.....	62(2)
Community college tuition waiver for certain emergency personnel	142§8.8
Delinquent stormwater utility fee collection by certain counties	55§1(a)-(c)
Direct control of certain human service commissions/boards/agencies authorized	126§§1-2
EMC authority to add counties to emissions program repealed.....	200§12(a)-(b)
High-speed internet access in unserved areas grants	86
Industrial Development Fund sewer improvement use in adjoining counties.....	74§4
LME adding counties to catchment area authorized	151§6
Lower Cape Fear Water and Sewer Authority design-build water transmission line	60
No county commissioner approval for area director	151§9(a)
Research and Production Service Districts expanded purposes	73
Rural Planning Organization area definition.....	44
Substance abuse prevention and treatment block grant.....	142§10.25(a)
TVA payments in lieu of taxes for Swain and Graham Counties	62(1)
Two year moratorium on 1915(b)(c) waiver county withdrawal from LME	151§7(a)-(b)
Urban Research Service Districts	73; 194§62.5
Zoning of deannexed areas	124§3
County Commissioners —see Counties; Local Government; Particular county	

Courts

Abuser treatment program participation review	39§1
Bail and bail bondsmen—see that heading	
Civil procedure see that heading	
Clerks of Court	
Jury lists and selection.....	180
Reporting of domestic violence offenses expanded.....	39§2
Salaries	142§25.1A(a)-(h)
Summary ejectment appeal bond and rent payment.....	17§1
Technical corrections, clarifications, and conforming changes	194§19
Consolidated Judicial Retirement System (CJRS)—see Retirement	
Court costs and fees	
Waiver of mediation fees require finding of just cause	142§16.6(a)-(c)
Court Information Technology and Facilities Fund uses expanded	142§16.5(a)-(i)
District Court	
Receiving delinquent and undisciplined complaints.....	172§1
Summary ejectment appeal bond and rent payment.....	17§1
Domestic violence/civil no-contact cases electronic filing pilot program sunset extended.....	142§16.4(a)-(b)
Domestic violence protective order continuance.....	20§1
Family court programs oversight.....	142§16.2
Foreign language interpreters	142§16.3(a)-(c)
Judges	
Consolidated Judicial Retirement System (CJRS)—see Retirement	
Dismissal fee discretion in mediated cases eliminated	194§63.3(b)
Forfeiture of retirement benefits for certain felonies	193§5-6
Motions for appropriate relief	168§2(a)-(b)
Salaries	142§25.1A(a)-(h)
Senior resident superior court judge selection process	194§63.5
Superior court judge may perform marriages	194§65.4(a)-(b)
Juries	
Lists and selection	180
Magistrates	
Salaries	142§25.1A(a)-(h)
Schedule management study	142§16.1
Technical corrections, clarifications, and conforming changes	194§1(a)-(e)

Courts—continued

Warrant for arrest/summons of school employee	149§5
Mediation and Arbitration—see that heading	
Simulating court process in collection of claim penalty	150§3
Superior Court	
Districts	182§2(a)-(c)
Judge may perform marriages	194§65.4(a)-(b)
Senior resident judge selection process.....	194§63.5
Supreme Court	
Senior resident superior court judge selection process	194§63.5

Craven County

Coastal area county designation	202§1
Multipurpose juvenile group homes funds	142§14.6
New Bern, City of—see that heading	

Creedmoor, Town of

ABC profits distribution	49
Delinquent stormwater utility fee collection	55§2

Crime Commission, Governor's—see

Governor's Crime Commission

Crimes (see also Courts; Law Enforcement; Sentencing)

Attorney position for tax fraud prosecution	142§22A.1
Criminal records—see Records	
Critical infrastructure trespass	168§1
Cyberbullying	149§3, 9
Domestic violence—see that heading	
Driving While Impaired (DWI)—see that heading	
Duty to report intimidation of school employee.....	149§8
Filing false lien against public official/employee.....	150§4
Filing false security agreements penalty	150§6
Forfeiture of retirement benefits for certain felonies	193
Forfeiture of vehicle used to transport	
illegally obtained metals.....	46§29
Galax and venus fly trap protections	200§18
Gang property a public nuisance	28
Habitual misdemeanor larceny	154
Improper receipt of decedent's disability benefits	185§3(a)-(b)
Injuring property to obtain metals	46§31
Mortgage satisfaction false filing	150§5
Motor vehicle violations and infractions	
—see that heading	
New penalty level for certain 2nd degree murder	165§1
Referral to mediation of citizen-initiated	
misdemeanor warrants.....	194§63.3(a)
Residential mortgage fraud.....	150§5
Retirement systems fraud investigations	185§2(a)-(d)
Sale of a minor.....	153§§1-4
School officials reporting certain acts to	
law enforcement	149§7

Crimes—continued

Secret peeping exclusion for Juvenile Justice personnel.....	83§1
Sex Offenses—see that heading	
Simulating court process in collection of claim penalty	150§3
Terrorism offense.....	38
Traffic offenses—see Motor Vehicle Violations and Infractions	
Trespassing on posted property in Granville County	52
Unemployment insurance fraud	
detection and recovery enhancement	134§4(a)-(e)
Warrant for arrest/summons of school employee.....	149§5
Waste kitchen grease theft.....	127§6

**Criminal Justice Education and
Training Standards Commission**

Expunction of nonviolent felonies.....	191
Technical corrections, clarifications, and conforming changes.....	83§29

Criminal Justice Information Network**Governing Board—appropriations-**

Information Technology Fund	142§6A.1
-----------------------------------	----------

Criminal Procedure (see also Evidence)

Motions for appropriate relief.....	168§2(a)-(b)
Prayer for judgement continued	149§11
RJA hearing procedures, rules, and application	136§§3-8
Rule 24 time requirements failure	136§2
Technical corrections, clarifications, and conforming changes.....	194§45(a)-(d)

Cullowhee, Town of

Western Carolina University—see University of North Carolina

Cultural Resources (see also Historic Sites and Monuments)

Historic preservation—see that heading

NC Symphony funds.....	142§22.1
------------------------	----------

Cultural Resources, Department of

Appropriations-current operations.....	142§2.1
Archives and Records Management Fund created	79§2.19(a)-(b)
Capital improvement projects.....	164§8
Division of State Historic Sites	
Fund to include State history	
museums and maritime museums	142§18.2
Division of State History Museums	
Fund to include State history	
museums and maritime museums	142§18.2
Five-year plan for certain historic sites	142§18.3
Historic sites and museums savings	
and revenue enhancements study	93§1
Museum of Art—see Museums	
Secretary	
Repeal of appointment of Museum of Art Director	120§2(a)
Salary.....	142§25.02(a)-(b)

Cumberland County

Fayetteville, City of—see that heading

Currituck CountyCoastal area county designation 202§1
Convey certain AMHC property to ECBH..... 113**D****Dare County**Coastal area county designation 202§1
Nags Head, Town of—see that heading**Data Systems** (see also Information Technology)Criminal Information Network 182§1
Education longitudinal data system 133§1(a)-(c)
Enterprise-level business intelligence initiative 142§6A.7A(a)-(h)
Jury lists 180
Local agency charges for vital records searches 18§§2.1-2.2
Pseudoephedrine transaction record-
keeping clarification 35§2
Vital Records Computer Network fee
repealed..... 18§2.2;
194§54**Davidson County**Commissioners approval for city to
annex territory within County 54
Cooperative innovative high school
pilot program 142§7.10
Davidson County Community College—
see Community Colleges
Design-build for county buildings 63
Lexington, City of—see that heading
Thomasville, City of—see that heading
Yadkin River Veterans Memorial Bridge named 42
Yadkin Valley Regional Career Academy
Authorized 48
Pilot program 142§7.10**Davidson, Town of**—occupancy, food

and beverage tax distribution 194§69

Day CareAdult care licensure block grant 142§10.25(a)
Child care
Allocation formula 142§10.2A
Facility nutrition rules 142§10.1(c1)
Subsidy Block Grants 142§10.25(a),(z)-(aa)
Subsidy rate provision 142§10.2
NC Pre-K multi-year contracts 142§10.1(a)
Provider criminal history checks 160**Deaf and Hard of Hearing**—see Disabled Persons

Death and Dying (see also Estates and Trusts)

Co-owners/right of survivorship and simultaneous death	69
Lease termination for deceased service member	64
Removal of deceased tenant's property	17§§7-9

Debt-Local Government

Eastern Municipal Power Agency revenue use	181
Improve bond efficiency	156§§1-3
LME authority to borrow money	151§9(a)
Regional solid waste management authority for debt setoff collection	88

Debt Setoff Collection Act 88**Debt-State Government**

Capital improvement projects without general fund appropriations	164
Community college general obligation bonds report repealed	142§8.3(b)
Global TransPark Escheat Fund investment maturity date	142§6.4
I-77 high occupancy toll project	184

Debtor and Creditor

Alternative forms for satisfaction of mortgage/deed of trust	150§§1-2
Filing false lien against public official/employee	150§4
Mechanics lien on real property	158; 175; 194§65.3(b)-(c)
Passing title by will	68
Secured transactions	70
Simulating court process in collection of claim penalty	150§3
State Home Foreclosure Prevention Project	
Conforming change	79§2.17(a)-(h)
Sunset removed	79§2.17(a)-(h)
Technical corrections, clarifications, and conforming changes	194§15

Dental Examiners, State Board of

Dentistry management	
Arrangements	195
Task force created	195§3(b)

Dentistry

Management arrangements	195
Maternal and child health block grant	142§10.25(a), (bb)-(cc)
Volunteer health care services	155; 194§47(a)-(c)

Deoxyribonucleic Acid (DNA)—see

DNA (Deoxyribonucleic Acid)

- Department of Agriculture and Consumer Services**—see Agriculture and Consumer Services, Department of
- Department of Commerce**—see Commerce, Department of
- Department of Health and Human Services (DHHS)**—see Health and Human Services, Department of (DHHS)
- Department of Public Instruction**—see Public Instruction, Department of
- Department of Secretary of State**—see Secretary of State, Department of
- Department of State Auditor**—see State Auditor, Department of
- Department of State Treasurer**—see State Treasurer, Department of
- Developmentally Disabled** (see also Disabled Persons; Mental Health)
- Charitable residential treatment facility licensure exemption..... 15§1
 - Transitions to community living initiative 142§10.23A(a)-(j)
- Dietetics/Nutrition, Board of**—appointments and membership 141§§1.11, 2.15
- Disabled Persons**
- Accessible electronic information block grant 142§10.25(a), (t)
 - "Basis of knowledge" about a child with disability sunset removed 77§5
 - Children with disabilities funds allocations..... 142§7.1
 - Easter Seal Society/UCP community health program block grant..... 142§10.25(a)
 - Firefighter/rescue squad worker disability retirement service requirement removed 82
 - Independent living program block grant 142§10.25(a)
 - LMEs (Local Management Entities)—see that heading
 - Prevent blindness 142§10.25(a), (s)
 - Residential schools improvement plans 142§7.3(a)-(h)
 - Telecommunications relay service 142§10.24(a)-(b)
- Disasters and Emergencies**
- Declared emergency area weapons prohibition repealed..... 12§2(c)
 - Hurricane Irene disaster loans 142§6.7(a)-(b)
- Disciplinary Hearing Commission of the North Carolina State Bar**—appointments and membership 141§§1.12(a)-(b), 2.6
- Dispute Resolution Commission**—appointments and membership 141§1.13

District Attorneys (see also Courts)	
Conference of District Attorneys	
Sale of minors study	153§5
Prosecutorial misconduct	7§§8-9
Referral to mediation of citizen-initiated misdemeanor warrants	194§63.3(a)
Salaries	142§25.1A(a)-(h)
Technical corrections, clarifications, and conforming changes	194§1(a)-(e)
Division of Motor Vehicles —see Motor Vehicles, Division of	
DNA (Deoxyribonucleic Acid) (see also Evidence)—preservation of evidence	7§§1-3
Domestic Violence (see also Crimes)	
Abuser treatment program participation review	39§1
Electronic filing in cases pilot program in Alamance County sunset extended	142§16.4(a)-(b)
No contact order service	19
Protective order continuance	20§1
Reporting of domestic violence offenses by clerks of court expanded	39§2
Domestic Violence Commission — appointments and membership	141§§1.14, 2.7(a)-(b)
Drivers Licenses	
Civil revocation for provisional licenses	168§3
Commercial license hazardous materials endorsement expiration	85§3
Limited duration license identifying mark	78§1
Military veteran notation implementation	85§2
Motorcycle testing and instructional courses	85§1
Next Generation Secure Drivers License System completion certification	85§12
Technical corrections, clarifications, and conforming changes	194§§8, 45(b)-(c)
Driving While Impaired (DWI)	
Alcohol monitoring systems for pretrial release, probation, and mitigated punishments	146§§1-9
Graduated scale of penalties	165§§2-3
Technical corrections, clarifications, and conforming changes	194§51.5
Vehicle forfeiture report by local superintendent repealed	142§7.13(c)
Dropout Prevention, Committee on Reports—see that heading	
Duplin County Wallace, Town of—see that heading	

Durham, City of	
Additional bases for assessments	94
North Carolina Central University—	
see University of North Carolina	
School of Science and Mathematics—	
see University of North Carolina	
Durham County	
Durham, City of—see that heading	
Durham Technical Community	
College—see Community Colleges	
Memorial stadium authority membership.....	112
DWI (Driving While Impaired)—see	
Driving While Impaired (DWI)	

E

Early Childhood Education—see	
Education; Health and Human Services,	
Department of (DHHS)	
Eastern Region Development	
Commission—allocation	142§13.12; 145§4.8
Economic Development (see also	
Commerce; Corporations, For-Profit)	
Article 3J tax credit	
Business property definition	79§2.4
Statute of limitations correction	79§1.13(a)-(c)
Temporary carryforward for tier one	
county investments.....	74§5
Clawbacks report	142§13.4(b)
Community Development Block Grant.....	142§13.1
Development tier designation report	142§13.4(e)
Enterprise-level business intelligence initiative	142§6A.7A(a)-(h)
Film tax credit extended	194§71.10(a)-(b)
NC Real funds.....	142§13.9
One North Carolina Fund	
Align with JDIG Program	142§13.6(a)-(h)
Funding study.....	142§13.6(d)
Port Enhancement Zone	
Definition change	187§15.2(a)-(b)
Technical correction	74§6(a)-(b)
Research and Production Service	
Districts expanded purposes.....	73; 194§62.5
Rural Jobs Infrastructure Grants.....	142§13.13; 145§4.9
Specialized ports equipment sales tax refund.....	74§7
Tax credits—see Taxes and Assessments	
Urban Research Service Districts	73; 194§62.5
Workforce development—see Employment	

Economic Investment Committee—	
appointments and membership	141§1.15
Edenton, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Edgecombe County	
Edgecombe Youth Development Center	
uses study.....	142§14.9
Rocky Mount, City of—see that heading	
Tarboro, Town of—see that heading	
Edneyville (Unincorporated Community)	
Western Regional Laboratory plan.....	142§15.4
Education	
Abstinence education block grant.....	142§10.25(bb)
Academically gifted children funds allocation.....	142§7.2
"Basis of knowledge" about a child	
with disability sunset removed	77§5
Budgeting of position allotments.....	142§7.18(a)-(b); 145§2.4(a)-(b)
Buses	
Name disclosure restrictions in crash.....	147
Use for US open in Moore County	27§1
Calendar	
Generally	145§2.5
Johnston County instructional day flexibility	5
Pilot program for certain counties.....	142§7.4
Central office salaries	142§25.7C(a)-(g)
Charter schools	
Certain Montessori schools added to	
State Health Plan.....	192§1
Children with disabilities funds allocations.....	142§7.1
Cooperative Innovative High Schools	
Pilot program.....	142§7.10
Programs clarification	142§7.11(a)-(i)
CPR instruction and graduation	
requirement.....	194§§71.8; 197
Cyberbullying	149§3, 9
Duty to report intimidation of school	
employee.....	149§8
Education employee associations access	179
EVASS enhanced use	77§2
Geographically isolated schools	142§7.16
Graduation requirements for students not	
continuing beyond high school study	77§6
Improve K-3 literacy.....	142§7A.1(a)-(i)
Instructional days increase funding	142§7A.6(a)-(b)
Investing in Innovation grant.....	142§7.17(a)-(c)

Education—continued

Learn and Earn high school workforce development evaluation repealed	142§7.13(a)
Liability for ending fight/altercation	149§1
Longitudinal data system.....	133§1(a)-(c)
NC Pre-K	
Continued implementation	142§10.1(c)
Health eligibility factor	142§10.1(d)
Per classroom funding pilot program.....	142§10.1(b)
Prescribed policies for operation.....	142§10.1(e)
Program eligibility.....	13§2(a)-(b)
Standard decision-making process for awarding slots	142§10.1(f)
NC Teacher Corps	142§7A.7(a)-(b)
Needs of students with family in the military	
Identification	194§55(c)
Report repealed	194§55(a)-(c)
No discipline for employee in student altercations	149§10
Pay for excellence.....	142§7A.10(a)-(b)
Positions to administer Excellent Public Schools Act.....	145§2.1
Preschool programs for at-risk children	77§3
Probation officer visits.....	149§6
Read NC pilot program.....	142§10.4(a)-(e)
Read to Achieve Program.....	142§7A.1(a)-(i)
Reporting certain acts to law enforcement	149§7
Residential schools improvement plans	142§7.3(a)-(h)
Salaries and benefits—see that heading	
School Buses—see Buses, this heading	
School calendar—see Calendar, this heading	
School employee dues checkoff eliminated	1
School performance grades	142§7A.3(a)-(g)
Separate juice and water bids repealed.....	89
Small, restructured high school program	
report repealed	142§7.13(b)
Statewide education "Race to the Top" initiatives	77§7(a)-(c)
Student data disclosure by nonpublic schools	133§2
Teacher preparation	77§1
Teachers and education administrators—see that heading	
Termination of child support for child in	
early college program	20§2
Transition plans/teams for at-risk children.....	77§4
UNC School of the Arts—see University of North Carolina	
Uniform Education Reporting System funds.....	142§7.19(a)-(b)
Vehicle forfeiture report by local superintendent repealed	142§7.13(c)
Virtual Public Schools (NCVPS) funds use	142§7.12
Warrant for arrest/summons of school employee.....	149§5
Yadkin Valley Regional Career Academy	
Authorized.....	48
Pilot program.....	142§7.10

Education Administrators —see Teachers and Education Administrators	
Education Assistance Authority, State (see also Tuition)—financial aid technical correction	142§9.2(a)-(d)
Education, Boards of (Local)	
Academically gifted children funds allocation.....	142§7.2
Begin school year early in Moore County to accommodate US Open	27§2
Calendar	
Generally	145§2.5
Instructional days increase funding.....	142§7A.6(a)-(b)
Pilot program for certain counties.....	142§7.4
Children with disabilities funds allocations.....	142§7.1
Cooperative Innovative High Schools programs clarification.....	142§7.11(a)-(i)
DWI vehicle forfeiture report repealed	142§7.13(c)
Geographically isolated schools	142§7.16
Haywood County filing period	24
Investing in Innovation grant.....	142§7.17(a)-(c)
Johnston County instructional day flexibility	5
Liability insurance coverage notification	142§7.9(a)-(b)
Longitudinal data system.....	133§1(a)
Name disclosure restrictions in school bus crash	147
Pay for excellence.....	142§7A.10(a)-(b)
Position allotments for schools.....	142§7.18(a)-(b); 145§2.4(a)-(b)
Probation officer visits to schools	149§6
Salaries and benefits—see that heading	
School bus use for US open in Moore County	27§1
School nurse utilization review extended.....	142§6.2
School performance grades	142§7A.3(a)-(g)
Separate juice and water bids for education entities repealed	89
Student altercations guidelines	149§10
Teacher assistant leave	142§7.14(a)-(c)
Transition plans/teams for at-risk children.....	77§4
Wake organizational meeting date	106
Education Commission of the States — appointments and membership	141§1.16
Education Opportunity for Military Children State Council, Commission on —appointments and membership	141§2.8
Education Oversight Committee, Joint Legislative —tuition cost for veterans study.....	142§9.1

Education, State Board of

Appropriations	
Academically gifted children funds allocation	142§7.2
Children with disabilities funds allocations	142§7.1
Calendar	
Generally	145§2.5
Pilot program for certain counties.....	142§7.4
Cooperative Innovative High Schools	
Pilot program.....	142§7.10
Programs clarification	142§7.11(a)-(i)
CPR instruction and graduation	
requirement for high school	194§71.8; 197
Gateway to college pilot.....	142§8.7(a)-(c)
Graduation requirements for students	
not continuing beyond high school study.....	77§6
Improve K-3 literacy.....	142§7A.1(a)-(i)
Learn and Earn high school workforce	
development evaluation repealed	142§7.13(a)
Name disclosure restrictions in school bus crash	147
NC Teacher Corps	142§7A.7(a)-(b)
Read to Achieve Program.....	142§7A.1(a)-(i)
Reports—see that heading	
Residential schools improvement plans	142§7.3(a)-(h)
School calendar—see Calendar, this heading	
School performance grades	142§7A.3(a)-(g)
Statewide education "Race to the Top"	
initiatives	77§7(a)-(c)
Teacher preparation	77§1
Technical corrections, clarifications, and conforming changes.....	83§§38-39
Yadkin Valley Regional Career Academy	
Authorized.....	48
Pilot program.....	142§7.10
Educational Testing —see Testing	
Elections (see also Redistricting)	
Guilford County Commissioners.....	21
HAVA Title II funds expenditure.....	142§23.1
Haywood County filing period	24
Referendum prior to involuntary annexation.....	11
Voter-Owned Elections Act	
supplemental report	142§23.5
Elections, Boards of (Local)	
Election system maintenance contracts	142§23.3(a)-(c)
Haywood County filing period	24
Technical corrections, clarifications, and conforming changes.....	194§22(a)-(b)

Elections, State Board of

- Appropriations-current operations..... 142§2.1
- Election system maintenance contracts 142§23.3(a)-(c)
- HAVA Title II funds expenditure..... 142§23.1
- Technical corrections, clarifications,
and conforming changes..... 194§§22(a)-(b), 37

Electricity—see Utilities**Electronic Government**

- Accessible electronic information for
blind/disabled block grant 142§10.25(a), (t)
- Domestic violence/civil no-contact
cases electronic filing pilot program
sunset extended..... 142§16.4(a)-(b)
- Medicaid
 - Electronic prior authorization for
prescriptions study 142§10.8A
 - Smart card pilot program..... 142§10.9(a)-(k)
 - State portal implementation and operation 142§6A.12(a)-(j)

Elementary Education—see Education**Elizabeth City, City of**

- Eastern Municipal Power Agency
 - Public meeting prior to rate changes 167
 - Revenue use..... 181
- Elizabeth City State University—see
University of North Carolina

Elizabethtown, Town of—involuntary

- annexation ordinance repeal and moratorium..... 103; 104

Emergency Management (see also

Emergency Services)

- Declared emergency area weapons
prohibition repealed..... 12§2(c)
- Double length of disaster declaration 90§§1, 7-8
- Firefighting equipment size/weight
exemptions..... 78§7
- Immunity from liability for property
used for emergency management
activities..... 90§§2, 9
- Rewrite/recodification of Act 12
- State Emergency Operations plan
agricultural revision..... 90§§5, 12
- State Emergency Response Team
defined/codified..... 90§§3-4,
10-11
- Volunteer health care services 155;
194§47(a)-(c)

Emergency Management Act 12; 90**Emergency Management Oversight**

- Committee, Joint Legislative**—created 90§6

Emergency Services (see also Emergency

Management)

Butner fire and police protection contract	50§3
Community college tuition waiver for certain emergency personnel	142§8.8
Fire and police protection by Butner Public Safety Authority	50§1
Fire code inspection of public buildings time period	161§2
Fire protection districts in Martin County	111
Firefighter/rescue squad worker disability retirement service requirement removed	82
Firefighting equipment size/weight exemptions	78§7
Firemen's Local Relief Fund Board of Trustees residency requirement	45
Maximum length for emergency/law enforcement vehicles	33
New Bern Firemen's Supplemental Retirement Fund repealed	123§2(a)-(b)
Permanent plate eligibility limited	159
PSAPS operating standards effective date	132
State Fire Protection Grant Fund study	142§20.1(a)-(b)
VIPER system	142§6.3(a)-(d)
Volunteer health care services	155; 194§47(a)-(c)
Winston-Salem Firemen's Retirement Fund	
Heroes Earnings Assistance and Relief Tax Act compliance	123§1(a)-(b)
Salary deduction	123§1(a)-(b)

Employment

Local and regional workforce development coordination	131§§2-3
NC Real funds	142§13.9
North Carolina Back-to-Work program	142§8.10A
Unemployment insurance three-year look back continued	134§1(a)-(g)
Workforce development internet-based intake system	131§5(a)-(b)
Workforce initiatives program ended	131§6

Energy Policy, Joint Legislative

Commission on —created	143§6(a)-(b)
-------------------------------------	--------------

Engineering—pre-construction activities

privatization for transportation projects	142§24.2
---	----------

Entertainment Industry—film tax credit

extended	194§71.10(a)-(b)
----------------	------------------

Environment

Air Toxics Program rules do not apply to certain emissions sources	91
Area of Environmental Concern study	202§4
Clean Coastal Water and Vessel Act applies to ferries	78§17
Commercial Storage Tank Cleanup Fund abandoned tanks use.....	200§13(a)-(c)
Degradable plastic products study	200§3(a)-(b)
Development on riparian buffer in certain river basins.....	200§8(b)
Discharge definition does not include air contaminants.....	187§11
Ecosystem Enhancement Program compensatory mitigation	201§5(a)-(b)
EMC authority to add counties to emissions program repealed	200§12(a)-(b)
Exempt new vehicles from emissions inspection	199
Galax and venus fly trap protections	200§18
Increased penalties for certain WRC violations	200§19
Inlet Hazard Area of Environmental Concern elimination study.....	202§5
Oil and gas exploration landowner and public protections	143§4(a)-(i); 201§12(d)
Plant conservation program funds	142§26.9
Protected natural area tax technical correction.....	79§1.9
Recycled asphalt use.....	8
Recycling oyster shells tax credit extended.....	36§6(a)-(b)
Riparian buffer land shall not be treated as State land	200§8(a)
Sea-level rise.....	202§2(a)-(c)
Stormwater capture and reuse.....	200§1
Technical corrections, clarifications, and conforming changes.....	194§28; 201§4
TVA settlement funds use	200§20
Type I solid waste compost facility discharge permit	200§5
Wildfires report.....	142§11.2

Environment and Natural Resources,**Department of (DENR)**

Alternative stormwater control at airports.....	200§6
Appropriations	
Aquarium budgeting clarification	142§12.8
Capital appropriations	142§26.2(a)-(f)
Current operations	142§2.1
Transfers for environmental health	145§§4.1-4.2
Water resources development projects.....	142§26.2(a)-(f); 166
Aquariums—see Zoos and Aquariums	
Capital improvement projects.....	164§8
Consumer Protection Division	
Compulsory pooling study	143§2(l)

Environment and Natural Resources,**Department of (DENR)—continued**

Division of Air Quality	
Air Toxics Program rules do not apply to certain emissions sources	91
Review toxic air pollutant rules	91§3
Division of Coastal Management	
Sea-level rise	202§2(a)-(c)
Division of Energy, Mineral, and Land Resources	
Formerly Division of Land Resources	143§1(e)
Regulation of oil and gas exploration including horizontal drilling and hydraulic fracturing	143§2(a)-(n)
Division of Land Resources	
Geodetic Survey Section transfer to Public Safety	142§12.4(a)-(i)
Name change to Division of Energy, Mineral, and Land Resources	143§1(e)
Division of Marine Fisheries	
Coastal fishing license and vessel titling fees study	190§1(a)-(c)
Fisheries management agencies organization study	190§2(a)-(c)
Division of Water Quality	
Type I solid waste compost facility discharge permit	200§5
Drinking Water Reserve—see Funds and Accounts	
Drinking Water State Revolving Fund— see Funds and Accounts	
Emissions inspection exemption for new vehicles	199
Kerr Lake water supply reallocation study	200§2(a)-(b)
Local government regulation of oil and gas exploration study	143§2(k)
Mining and Energy Commission staff positions	142§12.1
Permit processing times tracking and report	187§13(a)-(b)
Regional office centralized oversight	142§12.2(a)-(b)
Regulation of oil and gas exploration identification of costs	143§2(j)
Reports—see that heading	
Sanitary landfill fee schedule review	187§15.1
Scrap tire collector access to disposal site	200§14(a)-(b)
Secretary's salary	142§25.02(a)-(b)
Technical corrections, clarifications, and conforming changes	194§60
Water Infrastructure Fund closing fee conforming change	142§12.01
Zoos, parks, and aquariums savings and revenue enhancements study	93§2

Environmental Management Commission

Air Toxics Program rules do not apply to certain emissions sources	91
Appointments and membership	141§1.17
Authority to add counties to emissions program repealed	200§12(a)-(b)
Basinwide water quality management plans goals and cycle	200§9(a)-(g)
Jordan and Falls Reservoir nutrient management strategies.....	187§12.1
Jordan water supply nutrient strategy and stormwater management for new development.....	201§11(a)-(e)
Nutrient sensitive water compliance schedule flexibility	200§9(a)-(g)
Oil and gas exploration regulation including horizontal drilling and hydraulic fracturing	143§2(a)-(n)
Reports—see that heading	
Equal Access Act	179
Erosion Control Structures —see Beach Nourishment and Replenishment	
Estates and Trusts	
Child's "next friend"	71§2(a)-(e)
Child's year's allowance.....	71§§2(a), 3
Co-owners/right of survivorship and simultaneous death	69
Education expenses credit not allowed.....	79§2.6
Fiduciary conforming changes	18§§3.1-3.4
Intestate property passed to surviving spouse	71§1
Passing title by will.....	68
Payable on death accounts clarification.....	168§4
Technical corrections, clarifications, and conforming changes.....	194§§12-14, 40, 63
Trust and Probate Code changes	
effective date change	18§3.11
Trustees and decedents' estates technical corrections	18§§3.5-3.11
Ethics (see also Public Officials)	
Metropolitan Planning Organization and Rural Planning Organization covered entities.....	142§24.16(a)-(d)
"Shareholder" definition for potential lottery contractors	194§64
Transportation Board requirements	84§3
Ethics Commission, State	
Appointments and membership	141§§1.18, 2.36
Metropolitan Planning Organization and Rural Planning Organization covered entities.....	142§24.16(a)-(d)
Sharing information with Legislative Ethics Committee	182§3

Evidence (see also Criminal Procedure; Laboratories)	
Evidence warehouse transfer and expanded duties	83§§62-65
Forensic scientists accreditation	
clarified and deadline extended	168§6.1
Lab accreditation deadline extended	168§6
Preservation	7§§1-3
RJA hearing procedures, rules, and application	136§§3-8
Excellent Public Schools Act	142§7A.1-10; 145§2.1
Executive Orders —see Governor, Office of the	
Executive Organization Act	83§§47-48

F

Falls of Neuse Reservoir —nutrient management strategies	187§12.1
Family Planning —services appropriation and contracts	142§10.12
Farmers' Markets —see Agriculture	
Farmville, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Fayetteville, City of	
Fayetteville State University—see University of North Carolina	
Repeal of involuntary annexation.....	3§§1-2, 4
Fee-Based Practicing Pastoral Counselors, Board of Examiners of — appointments and membership	141§2.43
Fees	
Administrative Hearings contested case filing fee collection.....	187§5
Charitable Licensing Division fees treatment	142§21.1
Coastal fishing license and vessel titling fees study	190§1(a)-(c)
Community service supervision fee	188§3
Computer system replacement from fee revenue by Industrial Commission.....	142§13.7
Delinquent stormwater utility fee collection by certain cities and counties.....	55
Dismissal fee discretion in mediated cases eliminated.....	194§63.3(b)
Division of Criminal Information Network.....	182§1
Establishing/increasing fees under budget	142§6.10(a)-(b)
Food and lodging fees local distribution delayed.....	142§10.15
Local agency charges for vital records searches	18§§2.1-2.2

Fees—continued

Mortgage brokers, bankers, and servicers assessments.....	37
Reciprocal toll enforcement agreements authorized	85§§9-11
Registration renewal blocked for unpaid tolls.....	85§10
Sanitary landfill fee schedule review.....	187§15.1
Subsequent instrument recordation fee clarification	79§2.16
UNC student fees appropriation and use	142§9.9
Utilities regulatory fees set	74§1(a)-(d)
Vital Records Computer Network fee repealed.....	18§2.2; 194§54
Waiver of mediation fees require finding of just cause	142§16.6(a)-(c)
Water Infrastructure Fund closing fee conforming change	142§12.01
Workers' compensation rule making for medical care fees	135§3

Ferries

Clean Coastal Water and Vessel Act application	78§17
Toll clarification	142§24.18(a)-(b); 145§6.2

Festivals

State mullet festival	29
State spring and fall livermush festivals.....	29

Film Industry—see Entertainment Industry**Financial Services and Institutions**

Banking Commission, State—see that heading	
Expanded/modernized definitions	56§4
Filing false security agreements penalty	150§6
Mortgage brokers, bankers, and servicers assessments.....	37
Payable on death accounts clarification.....	168§4
Regulation of Financial Services formerly Regulation of Banks	56
Secured transactions	70
Simulating court process in collection of claim penalty	150§3
Technical corrections, clarifications, and conforming changes.....	56§§5-50; 194§§11, 53
Trustees and decedents' estates technical corrections	188§§3.5-3.11
Trusts fiduciary conforming changes	188§§3.1-3.4

Fines and Penalties

Community college campus parking fine increase.....	142§8.9
Forfeiture of retirement benefits for certain felonies	193
Forfeiture of vehicle used to transport illegally obtained metals.....	46§29
Hunting/fishing license early renewal penalty eliminated	81

Fines and Penalties—continued

Increased penalties for certain WRC violations	200§19
No interest/penalties on past due toll accounts.....	78§14
Tax penalties change TIMS workaround.....	79§2.18(a)-(b)
Transportation penalties treated as receipts.....	142§24.9
Weight limits/penalties clarification.....	78§4

Firefighters and Firefighting—see

Emergency Services

Fish and Wildlife

Ocean species—see Fisheries

State butterfly..... 29

State mullet festival 29

Taking of Menhaden and Atlantic

Thread Herring prohibited..... 190§3(a)-(b)

Fisheries (see also Coastal Resources)

Management agencies organization study 190§2(a)-(c)

Supermajority of Marine Fisheries

Commission for certain overfishing issues 190§5

Taking of Menhaden and Atlantic

Thread Herring prohibited..... 190§3(a)-(b)

Fisheries Products

Recycling oyster shells tax credit extended..... 36§6(a)-(b)

Seafood industrial park tier one

designation extended 36§1

Fontana Dam, Town of—occupancy tax 107**Food Services**

Food and lodging fees local

distribution delayed 142§10.15

Mobile food unit sanitation requirements..... 187§16.2

Foods and Beverages

Food banks block grant..... 142§10.25(a), (w)

Nutrition—see Public Health

Separate juice and water bids for

education entities repealed 89

State spring and fall livermush festivals..... 29

Foreclosures—see Debtor and Creditor;

Mortgages and Deeds of Trust

Forest Service, North Carolina—see

Agriculture and Consumer Services,

Department of

Forestry

Agriculture cost share program and

agriculture water resources assistance funds..... 142§11.2A(a)-(b)

Wildfires report..... 142§11.2

Forestry Products—weight limit exceptions

for transporting certain products..... 78§6

Forsyth County

Winston-Salem, City of—see that heading

Foster Care (see also Adoption; Child Custody and Support; Minors)	
Block grants	142§10.25(a)
Non-release of certain information	
without penalty	153§7
Register of licensed foster homes	153§7
Foxfire Village, Town of —special assessment	
levy validated	53
Fracking —see Mining and Mineral Exploration	
Franklin County	
Louisburg, Town of—see that heading	
Fraud —see Crimes	
Fremont, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use	181
Fuels (see also Alternative Energy; Motor Vehicles)	
Biodiesel producers tax credit extended	36§3
Electronic filing and payment of motor fuels tax	79§2.15
Motor fuel excise tax rate reduction	142§24.11
Passenger air carrier fuel tax refund extended	36§11(a)
Piped natural gas excise tax prepayment threshold	79§2.13
Renewable fuel facilities extended	36§2
Funds and Accounts	
Agricultural Research Stations Fund established	142§11.4
Archives and Records Management Fund created	79§2.19(a)-(b)
Civil Penalty and Forfeiture Fund transportation	
penalties treated as receipts for transfer	142§24.9
Clean Water Management Trust Fund	
Allocations	142§12.7(a)-(b)
Current operations	142§2.1
Collection of Worthless Checks Fund	
Use	142§16.7
Use for information technology and	
office equipment	142§16.7
Commercial Leaking Petroleum	
Underground Storage Tank Cleanup	
Fund abandoned tanks use	200§13(a)-(c)
Consumer Protection Fund retained	
amount increase	142§20.2
Court Information Technology and	
Facilities Fund uses expanded	142§16.5(a)-(i)
Drinking Water Reserve transfer to	
Drinking Water State Revolving Fund	142§12.3
Drinking Water State Revolving Fund	
transfer from Drinking Water Reserve	142§12.3
Employment Security Reserve Fund	
appropriations and allocations	142§13.8(a)-(f)

Funds and Accounts—continued

Escheat Fund	
Additional appropriations.....	142§5.1
Financial aid administrative costs	142§8.11(a)-(c)
Global TransPark investment maturity date.....	142§6.4
Faculty Recruiting and Retention Fund reestablished.....	142§25.3
Highway Fund	
Cash flow appropriations	142§24.1(b)
Credit Reserve Balance clarification.....	142§24.6
General Fund transfer.....	142§24.13
Inspection Program Account other uses.....	142§24.3
Unexpended contingency funds	142§24.12
Highway Trust Fund	
Cash flow appropriations	142§24.1(c)
Fixed guideway projects use	142§24.19(b)
Indian Gaming Education Revenue Fund created	6§1
Industrial Development Fund	
Clawbacks report.....	142§13.4(b)
Reports repealed.....	142§13.4(c)
Sewer improvement use in adjoining counties	74§4
Information Technology Fund	
Availability.....	142§6A.1
Current operations	142§2.1
Information Technology Internal Service Fund	
Charges to DPI	142§6A.5(c)
Charges to State Controller	142§6A.5(c)
Rate establishment/cash management.....	142§6A.5(a)-(e)
Job Maintenance and Capital Development Fund clawbacks report.....	142§13.4(b)
Lottery Fund	
Appropriations.....	142§5.3(a)-(i)
UNC Need-Based Financial Aid.....	145§1.3
Lottery Reserve Fund no appropriations	142§5.3(b)
Mobility Fund formula codification	142§24.8(a)-(b)
Natural Heritage Trust Fund use clarification	145§4.4
One North Carolina Fund	
Align with JDIG Program	142§13.6(a)-(h)
Clawbacks report.....	142§13.4(b)
Current operations	142§2.1
Funding study.....	142§13.6(d)
One North Carolina Fund Reserve established.....	142§13.6(f)
Repairs and Renovations Reserve Account	
Allocations	142§26.4(a)-(c)
OSBM allocations	142§26.11
Reserve for Job Development	
Investment Grants current operations.....	142§2.1

Funds and Accounts—continued

Reserve for Reimbursements to Local Governments and Shared Tax Revenues additional appropriations	142§5.1
Retiree Health Benefit Fund	
Investment	178§6
Technical corrections, clarifications, and conforming changes	130§10
Site Infrastructure Fund clawbacks report	142§13.4(b)
State Fire Protection Grant Fund study	142§20.1(a)-(b)
State Historic Sites and Museums	
Fund to include State history museums and maritime museums	142§18.2
Transitions to Community Living Fund	
Allocations	142§10.23A(e)-(f); 145§3.6
Created	142§10.23A(d)
Unemployment Trust Fund allocations	142§13.8(e)
Water Infrastructure Fund closing fee conforming change	142§12.01
Worker Training Trust Fund NC Real funds	142§13.9
Funeral Service, Board of —no license for those convicted of sex offense	194§71
Fuquay-Varina, Town of —limit access to minors' information	139§1(a)-(b)

G

Gaming —Indian gaming compact Class III games	6
Gangs —see Crimes	
Garner, Town of —limit access to minors' information	139§1(a)-(b)
Gaston County	
Gaston College—see Community Colleges	
Gates County —coastal area county designation	202§1
General Assembly	
Adjournment by operation of law	194§66.5(b)
Appropriations	
Current operations	142§2.1
Enterprise-level business intelligence initiative	142§6A.7A(d)
Appropriations committees interim meetings repealed	142§6.1
Consultation with a legislative committee	142§6.11
Fiscal Research Division	
Medicaid organization study	142§10.9B(a)-(b)
Medicaid program disclosures	142§6.12
Public employee compensation plan review	142§25.2D
School nurse utilization review extended	142§6.2
Tax related retirement member information not part of FRD access	178§1

General Assembly—continued

UNC tuition surcharge study	142§9.8
Wildlife Resources Commission budget code	142§12.6
Forfeiture of retirement benefits for certain felonies	193§§7-8
Legislative approval for prison health care contracts	2§3
Legislative committees and commissions —see particular committee/commission	
Legislative Ethics Committee—see that heading	
Legislative Retirement System (LRS)—see Retirement	
Legislative Services Commission	
Public employee compensation plan review	142§25.2D
Lobbying	
Public Safety Dept. legislative liaisons	83§6
Organizational session	194§66.5(a)
President Pro Tempore	
Appointments—see that heading	
LRC co-chair designees	194§66.7(a)-(b)
Program Evaluation Division	
Div. of Public Health duties transfer to UNC study	126§5
Human Relations Commission and OAH Civil Rights Div. duties and services study	142§19.1
Medicaid organization study	142§10.9B(a)-(b)
NC Railroad study	142§24.20; 194§71.5(a)-(b)
Public employee compensation plan review	142§25.2D
State-owned land and submerged land study	194§71.5(c)-(d)
State Railroad study outside consultant authorization repealed	194§71.5(b)
Studies impact statement	80
Revisor of Statutes	
Next Generation Secure Drivers License System completion certification	85§12
Technical corrections, clarifications, and conforming changes	194§§43-44
Salaries	142§25.1B(a)-(d)
Speaker	
Appointments—see that heading	
LRC co-chair designees	194§66.7(a)-(b)

General Statutes

Mobility Fund formula codification	142§24.8(a)-(b)
Obsolete Register of Deeds provisions eliminated	18§§1.1-1.24
Pawnbrokers and cash converters recodification	46§§1-14
Precious metals businesses recodification	46§§15-23
Revisor of Statutes—see General Assembly	
Technical corrections bill	194

Geographic Information and Analysis,

Center for—see Information Technology
Services, Office of

Geographic Information Coordinating Council —appointments and membership	120§3.2
Geography	
Boundary between Swain and Graham	
Counties clarified.....	62(2)
Geodetic Survey Section transfer from	
DENR to Public Safety.....	142§12.4(a)-(i)
Orange-Alamance County line	108
Global TransPark Authority	
Escheat Fund investment maturity date.....	142§6.4
Technical corrections, clarifications, and conforming changes.....	194§§17-18
Goldsboro, City of	
Airport authority dissolved.....	26
Repeal of involuntary annexation.....	3§§1-2, 4
Governmental Operations, Joint	
Legislative Commission on —technical corrections, clarifications, and conforming changes	201§§1, 6
Governor, Office of the	
Appropriations committees consultation repealed	142§6.1
Appropriations-current operations.....	142§2.1
Budget and Management, Office of State—see that heading	
Capital punishment protocols approval repealed.....	136§1
Double length of disaster declaration	90§§1, 7-8
Exempt positions	
Designation.....	142§25.2E(a)-(b)
Public Safety Dept.....	83§7
Ferry toll clarification.....	142§24.18(b); 145§6.2
Governor	142§25.01(a)-(b)
Housing Finance Agency—see that heading	
Public Safety Dept. official license plates shifted	83§4
Rewrite/recodification of Emergency Management Act	12
Salary	142§25.01(a)-(b)
Technical corrections, clarifications, and conforming changes.....	83§30
Governor's Crime Commission — technical corrections, clarifications, and conforming changes	83§54
Governor's Management Council — technical corrections, clarifications, and conforming changes	83§50
Graham County	
Boundary with Swain County clarified	62(2)
TVA	
Payments in lieu of taxes.....	62(1)
Settlement funds use.....	200§20

Grants

Community health grant funding.....	142§10.13(a)-(b)
DHHS Block Grants	142§10.25(a)-(f)
Financial statements for public funded nonprofits.....	169
High-speed internet access in unserved areas grants.....	86
Investing in Innovation grant.....	142§7.17(a)-(c)

Grants Management Oversight

Committee —created	142§6A.10
---------------------------------	-----------

Granville County

ABC profits distribution	49
Butner, Town of—see that heading	
Creedmoor, Town of—see that heading	
Delinquent stormwater utility fee collection	55§1(a)-(c)
Oxford, City of—see that heading	
Stem, Town of—see that heading	
Stoval, Town of—see that heading	
Trespassing on posted property	52

Greene County

Hookerton, Town of—see that heading	
-------------------------------------	--

Greensboro, City of

Greensboro Readiness Center.....	145§6A.1
North Carolina Agricultural and Technical State University—see University of North Carolina	
UNC-Greensboro—see University of North Carolina	

Greenville, City of

East Carolina University—see University of North Carolina	
Eastern Municipal Power Agency Public meeting prior to rate changes	167
Revenue use.....	181

Group Homes

Multipurpose juvenile group homes funds	142§14.6
Personal care services under Medicaid.....	194§70
Transitions to community living initiative	142§10.23A(a)-(j)

Guardianship

Adult guardianship authorization for LMEs repealed.....	151§12(a)-(e)
Child's "next friend"	71§2(a)-(e)

Guilford County

Archdale, City of—see that heading	
Board of Commissioners election.....	21
Greensboro, City of—see that heading	
High Point, City of—see that heading	

H**Halifax County**

Halifax-Northampton Regional

Airport Authority powers amended..... 116§2(a)-(b)

Hobgood, Town of—see that heading

Roanoke Rapids, City of—see that heading

Scotland Neck, Town of—see that heading

Hamilton, Town of

Eastern Municipal Power Agency

Public meeting prior to rate changes 167

Revenue use..... 181

Haywood County

Board of Education filing period 24

Correctional center transfer to County 177§§3.1-3.3

TVA settlement funds use 200§20

Hazardous Substances

Commercial drivers license

endorsement expiration 85§3

Lead-based paint hazard management program 200§4(a)-(b)

Health and Human Services,**Department of (DHHS)**

ADAP enrollment in Inclusive Health

North Carolina 142§10.16(a)-(c)

Appropriations

Current operations and expansion 142§2.1

Division of Aging and Adult Services

Administration block grant 142§10.25(a)

Block Grants 142§10.25(a)

Current operations..... 142§2.1

Guardianship services block grant..... 142§10.25(w1)

Social services block grant 142§10.25(a)

Division of Central Management and Support

ALS Association block grant..... 142§10.25(a), (s1)

Current operations..... 142§2.1

Division of Child Development and

Early Education

Administration block grant 142§10.25(a)

Block Grants 142§10.25(a)

Child care and development block grant 142§10.25(a),
(z)-(aa)

Current operations..... 142§2.1

Read NC pilot program..... 142§10.4(a)

Division of Health Service Regulation

Administration block grant 142§10.25(a)

Adult care licensure block grant 142§10.25(a)

Current operations..... 142§2.1

Mental health licensure block grant..... 142§10.25(a)

Division of Medical Assistance

Health and Human Services,**Department of (DHHS)—continued**

Current operations.....	142§2.1
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
Administration block grant	142§10.25(a)
Current operations.....	142§2.1
Substance abuse prevention and treatment block grant	142§10.25(a)
Division of Public Health	
Block Grants	142§10.25(a)
Community-based health and wellness initiatives.....	142§10.14(a)-(b)
Current operations.....	142§2.1
HIV/STD prevention and community planning block grant	142§10.25(a); 145§3.1(c)
Maternal and child health block grant	142§10.25(a), (bb)-(cc); 145§3.1(b)
Prevent blindness	142§10.25(a), (s)
Preventive health services block grant	142§10.25(a)
State Center for Health Statistics	142§10.25(a)
Substance abuse prevention and treatment block grant	142§10.25(a)
Tobacco cessation	142§10.25(a)
Division of Services for the Blind, Deaf, and Hard of Hearing	
Accessible electronic information block grant	142§10.25(a), (t)
Current operations.....	142§2.1
Independent living program block grant.....	142§10.25(a)
Division of Social Services	
Administration block grant	142§10.25(a)
Block Grants	142§10.25(a); 145§3.1(a)
Child advocacy centers block grant	142§10.25(w1)
Current operations.....	142§2.1
Low-income home energy assistance block grant	142§10.25(a), (x)-(y)
Social services block grant	142§10.25(a), (l)-(w1)
TANF funded programs.....	142§10.25(g)-(k)
Tobacco cessation block grant.....	145§3.1(e)
Division of Vocational Rehabilitation Services	
Current operations.....	142§2.1
Easter Seal Society/UCP community health program block grant.....	142§10.25(a)
Family planning services.....	142§10.12
Inpatient psychiatric beds funds.....	142§10.10

Health and Human Services,**Department of (DHHS)—continued**

Medicaid budget contingent on adequacy of funding.....	142§10.9G
Medicaid funding	2§1(a)-(c)
Medicaid smart card pilot program	142§10.9(k)
Mental health services block grant.....	142§10.25(a)
NC Health Choice	
Current operations.....	142§2.1
Nonprofit organizations funding reduction.....	142§10.18(a)-(b)
Office of Economic Opportunity	
Community services block grant	142§10.25(a)
Office of the Secretary	
Administration block grant	142§10.25(a)
Repairs and Renovations Reserve	
Account transfer for Medicaid	57
TANF Funds.....	142§10.25(a); 145§3.1(a)
Transfer for environmental health.....	145§4.1
Area board training curriculum	151§4(b)
Block Grants	
Appropriations schedule.....	142§10.25(d)
Budget and Management approval of changes	142§10.25(e)
Federal funds availability	142§10.25(c)
Low-income home energy assistance	
approval for allocation	142§10.25(x)
Plans	142§10.25(b)
Charitable residential treatment facility	
licensure exemption.....	15§1
Child care provider criminal history checks.....	160
Community-based health and wellness initiatives.....	142§10.14(a)-(b)
Community health grant funding.....	142§10.13(a)-(b)
Division of Aging and Adult Services	
Appropriations—see Appropriations, this heading	
Division of Central Management and Support	
Appropriations—see Appropriations, this heading	
Division of Child Development and Early Education	
Appropriations—see Appropriations, this heading	
Child Care	
Allocation formula.....	142§10.2A
Facility nutrition rules.....	142§10.1(c1)
Subsidy rate provision	142§10.2
Head Start	
Child care subsidy rate provision	142§10.2
NC Pre-K	
Child care subsidy rate provision	142§10.2
Continued implementation.....	142§10.1(c)

Health and Human Services,**Department of (DHHS)—continued**

Health eligibility factor	142§10.1(d)
Multi-year contracts	142§10.1(a)
Per classroom funding pilot program	142§10.1(b)
Prescribed policies for operation	142§10.1(e)
Program eligibility	13§2(a)-(b)
Standard decision-making process for awarding slots	142§10.1(f)
Division of Health Service Regulation	
Appropriations—see Appropriations, this heading	
Electronic supervision device use pilot program extension	15§2
LME provider endorsement functions	66
Division of Medical Assistance (see also Medicaid)	
Appropriations—see Appropriations, this heading	
Audit	142§10.9A(a)-(c); 145§3.3
Critical Access Behavioral Health Agencies	
providers of Medicaid services	171
Loss of public assistance for probation	
violator rules	170§2
Medicaid program disclosures	142§6.12
Nonemergency medical transportation RFP	142§10.7(a)-(d)
Personal care services/ADL eligibility	142§10.9F(a)-(g)
Provider rate reduction authority removed	142§10.9C(a)-(b)
Special care/memory care units home/ community-based Medicaid services program	142§10.9E(a)-(c); 145§3.5
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
Appropriations—see Appropriations, this heading	
Convey certain AMHC property to ECBH	113
Division of Public Health	
Appropriations—see Appropriations, this heading	
Lead-based paint hazard management program	200§4(a)-(b)
Transfer duties to UNC study	126§5
Division of Services for the Blind, Deaf, and Hard of Hearing	
Appropriations—see Appropriations, this heading	
Division of Social Services	
Appropriations—see Appropriations, this heading	
Loss of public assistance for probation violator rules	170§2
Non-release of certain information without penalty	153§7

Health and Human Services,**Department of (DHHS)—continued**

Register of licensed foster homes	153§7
Division of Vocational Rehabilitation Services	
Appropriations—see Appropriations, this heading	
Early Childhood Education and Development Initiatives (see also Division of Child Development and Early Education, this heading) Partnership for Children—see that heading	
Equalize in-home, adult care home, and rental assistance payments.....	142§10.23(a)-(h)
Family planning services	142§10.12
Food and lodging fees distribution delayed.....	142§10.15
Medicaid—see that heading	
Nonprofit organizations funding reduction	142§10.18(a)-(b)
NonState entities matching funds requirement.....	142§10.19(a)
Office of Economic Opportunity Appropriations—see Appropriations, this heading	
Office of the Secretary—see Secretary, this heading	
Private drinking wells setback variances	200§11(a)-(c)
Public health improvement incentive program.....	126§3
Reduction of acute care admissions and crises services by LMEs study	128§2
Reports—see that heading	
Reports required by nonState entities	142§10.19(a)-(b)
School nurse utilization review extended.....	142§6.2
Secretary Appropriations—see Appropriations, this heading Salary.....	142§25.02(a)-(b)
Technical corrections, clarifications, and conforming changes	194§27
State agency teachers' compensation.....	142§25.7E
State-county special assistance	142§10.23(a)-(h)
TANF and Work First benefit implementation revised dates	142§10.22
Technical corrections, clarifications, and conforming changes.....	83§40; 194§§21(b), 29
Telecommunications relay service	142§10.24(a)-(b)
Transitions to community living initiative	142§10.23A(a)-(j)
Volunteer health care services	155; 194§47(a)-(c)

Health and Human Services, Joint**Legislative Oversight Committee on**

—mental health services delivery study 142§10.11(a)-(b);
145§3.4

Health, Departments of (County)

Accreditation..... 126§3
Community-based health and wellness initiatives funds..... 142§10.14(a)-(b)
Family planning services 142§10.12
Funding 126§3
Public health improvement incentive program..... 126§3
Ten essential public health services..... 126§4; 194§62

Health Services

Community-based health and
wellness initiatives funds..... 142§10.14(a)-(b)
Community health grant funding..... 142§10.13(a)-(b)
CPR instruction and graduation
requirement for high school 194§71.8; 197
Dentistry management arrangements 195
Equalize in-home, adult care home,
and rental assistance payments 142§10.23(a)-(h)
Graduates in primary care report date change 142§9.5
Hospitals and clinics—see that heading
Inmate medical costs..... 142§14.2(a)-(b)
Legislative approval for prison health
care contracts 2§3
LMEs (Local Management Entities)—
see that heading
Medicaid smart card pilot program 142§10.9(a)-(k)
Mental health—see that heading
Nursing—see that heading
Patient right to choose physical therapist 129
Personal care services in group homes
under Medicaid 194§70
Physical, occupational, and speech
therapy Medicaid limits revised 142§10.5
Physicians—see that heading
Public health improvement incentive program..... 126§3
Ten essential public health services..... 126§4; 194§62

Hearing Aid Dealers and Fitters

Board—apprenticeship waiver correction 194§66

Heart Disease and Stroke Prevention**Task Force, Justus-Warren—**

appointments and membership 141§2.9

Henderson County

Edneyville (unincorporated
community)—see that heading
Occupancy tax 144
TVA settlement funds use 200§20

Hertford County	
Coastal area county designation	202§1
Investing in Innovation grant.....	142§7.17(a)-(c)
Hertford, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
High Point, City of—deannexation/ annexation with Archdale	102
Historic Preservation—historic structure rehabilitation tax credit extended.....	36§12(a)-(b)
Historic Sites and Monuments (see also Cultural Resources)	
Five-year plan for certain historic sites	142§18.3
Historic sites and museums savings and revenue enhancements study	93§1
Hobgood, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Holly Springs, Town of—limit access to minors' information.....	139§1(a)-(b)
Homeowners' and Community Associations—property tax collection	157
Hookerton, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Hospitals and Clinics (see also Residential Treatment Facilities)	
Accounts receivable process exceptions for ECU	194§68(a)-(c)
Charitable facility licensure exemption	15§1
ECU health care service providers rental receipts.....	194§67
Electronic supervision device use pilot program extension	15§2
Inpatient psychiatric beds funds	142§10.10
Involuntary committment safety/ containment measures	128§1
Satellite annexation restrictions removed for Wallace	118
Technical corrections, clarifications, and conforming changes.....	83§44
Hotels and Motels	
Occupancy tax—see Taxes and Assessments	
Housing (see also Landlord and Tenant)— ten-year lithium battery smoke alarm requirement for rental housing.....	92

Housing Finance Agency, Board of**Directors**

- Appropriations-national mortgage settlement 142§6.5(a)-(d)
- State Home Foreclosure Prevention Project
 - Conforming change 79§2.17(a)-(h)
 - Sunset removed 79§2.17(a)-(h)
- Technical corrections, clarifications,
and conforming changes..... 194§24

Housing Partnership, North Carolina—

- appointments and membership 141§1.19

Human Relations Commission—duties

- and services study 142§19.1

Human Trafficking Commission

- Created 142§15.3A(a)-(k)
- Technical corrections, clarifications,
and conforming changes..... 194§55.5

Huntersville, Town of—occupancy, food

- and beverage tax distribution..... 194§69

Hunting and Fishing

- Coastal fishing license and vessel titling
fees study 190§1(a)-(c)
- Commercial ocean fishing—see Fisheries
- License early renewal penalty eliminated 81
- Taking of Menhaden and Atlantic Thread
Herring prohibited 190§3(a)-(b)
- Trespassing on posted property in
Granville County 52

Hyde County—coastal area county

- designation 202§1

I**Identification Systems**

- All State agencies identity theft report 187§10.2
- Drivers licenses—see that heading
- Pseudoephedrine transaction ID and
recordkeeping clarification..... 35§2

Indian Affairs, State Commission of

- Appointments and membership 141§1.20
- Appropriations-low-income home
energy assistance block grant 142§10.25(a)

Indigent Defense Services, Commission

- on—appointments and membership 141§§1.21, 2.5

Indigent Defense Services, Office of

- Appropriations
 - Current operations 142§2.1
 - Existing office expansion funds 142§16.8
 - State match for grants..... 142§16.9

Industrial Commission

- Computer system replacement..... 142§13.7
- Employer information provided by
 - Rate Bureau 135§1(a)-(b)
- Release of information provided by
 - Rate Bureau 194§65.5
- Workers' compensation
 - Health care provider compensation
 - for communications..... 135§4
 - Rule making for medical care fees..... 135§3

Industrial Equipment—building code

- inspection exemption 34

Industrial Location

- Research and Production Service
 - Districts expanded purposes..... 73
- Urban Research Service Districts 73; 194§62.5

Information Technology

- Agency expenses cannot exceed
 - appropriations 142§6A.5(c)
- B.S.I.P. exempt from IT hosting
 - requirement..... 142§24.14
- Collection of Worthless Checks Fund
 - use..... 142§16.7
- Computer system replacement by
 - Industrial Commission..... 142§13.7
- Contractors/personnel contracts
 - reporting 142§6A.4
- Court Information Technology and
 - Facilities Fund uses expanded 142§16.5(a)-(i)
- Cyberbullying 149§3, 9
- Data Systems—see that heading
- Election system maintenance contracts 142§23.3(a)-(c)
- Enterprise grants management system 142§6A.10
- High-speed internet access in unserved
 - areas grants 86
- Integrated Budget Information System
 - funds 142§22.2
- Mobile electronic device agency report..... 142§6A.7
- Privatization..... 142§6A.6(a)-(c)
- Profile definition 149§2
- State portal implementation and
 - operation 142§6A.12(a)-(j)
- State private cloud 142§6A.9(a)-(f)
- Tax Information Management System
 - public-private partnership..... 142§6A.3(a)-(k)
- Tax penalties change TIMS workaround..... 79§2.18(a)-(b)
- Workforce development internet-based
 - intake system 131§5(a)-(b)

Information Technology Services, Office

of (see also State Chief Information Officer)

- Appropriations-Information Technology Fund 142§6A.1
- Center for Geographic Information and Analysis
 - Functions and cost recovery 142§6A.2
 - Information Technology Fund appropriation 142§6A.1
- Internal service fund rate establishment/
cash management 142§6A.5(a)-(e)
- State Chief Information Officer—see that heading

Infrastructure (see also Roads and

Highways; Telecommunications; Utilities)

- Community Development Block Grant 142§13.1
- Critical infrastructure trespass 168§1
- Durham additional bases for assessments 94

Innocence Inquiry Commission

- Claim of actual innocence referral 7§5
- Closure of proceedings 7§6
- Compensation for imprisonment 7§7
- Definition of claimant 7§4
- Prehearing conference 7§7
- Prosecutorial misconduct 7§8-9

Inspections

- Building code inspection exemption
for certain industrial machinery 34
- EMC authority to add counties to
emissions program repealed 200§12(a)-(b)
- Emissions exemption for new vehicles 199
- Juvenile detention home inspection 172§2
- Notice of rights in agricultural labor inspections 187§10.1(b)-(c)

Insurance

Disability Income Plan

- Improper receipt of decedent's benefits 185§3(a)-(b)

Health

- NC Health Choice-current operations 142§2.1
- Patient right to choose physical therapist 129
- State Health Plan
 - Certain Montessori schools added to plan 192§1
 - Dependent child definition 173§1
 - Enrollment period 173§2(a)-(c)
 - Long-term care option repealed 173§3(a)-(f)
 - Rates/percentages setting authority 173§4(a)-(b)
 - Technical corrections, clarifications,
and conforming changes 173§5;
194§§30-32
 - Whistleblower protections 192§§2-3

Liability

- School personnel coverage notification 142§7.9(a)-(b)
- UNC purchase 142§9.15

Insurance—continued

Long-term care premiums tax credit extended	36§7
Motor vehicle	
motorcycle safety—program insurance discount for armed services members.....	176
Mutual insurance holding companies	161§1
Property	
Fairness/efficiency of geographic rate territories study	162§6
Rate making process.....	162
Regulatory fees set.....	74§1(c)
Unemployment	
Compliance with Trade Adjustment Extension Act of 2011.....	134§3(a)-(f)
Conforming to federal law	134§2(a)-(e)
Employment Security Reserve Fund.....	142§13.8(a)-(f)
Fraud detection and recovery enhancement	134§4(a)-(e)
Lien agent registration.....	158§3
NC Facts Program	134§6(a)-(b)
Technical corrections, clarifications, and conforming changes	134§5(a)-(f)
Three-year look back continued.....	134§1(a)-(g)
Workers' compensation	
Coverage compliance and fraud prevention and detection study	135§8(b)
Employer access to employee medical information	135§2
Employer information provided by Rate Bureau to Industrial Commission	135§1(a)-(b)
Health care provider compensation for communications	135§4
Release of information provided by Rate Bureau.....	194§65.5
Rule making for medical care fees.....	135§3
Technical corrections, clarifications, and conforming changes	194§56
Temporary total disability	135§6
Vocational rehabilitation.....	135§7
Volunteer safety workers	142§2.1
Insurance, Department of	
Appropriations	
Building code review positions for State buildings transferred	142§20.3
Current operations.....	142§2.1
Volunteer Safety Workers	
Compensation Fund assessment	142§20.4(a)-(b)
Commissioner	
Fire code inspection of public buildings time period	161§2
Salary.....	142§25.01(c)-(d)

Insurance, Department of—continued	
Fairness/efficiency of property insurance	
geographic rate territories study	162§6
Office of Managed Care Patient	
Assistance Program	
Health Insurance Consumer Protection	
Unit transferred from Justice Dept.....	142§15.3(a)-(b)
State Fire Protection Grant Fund study	142§20.1(a)-(b)
Volunteer Safety Workers Compensation	
Fund assessment	142§20.4(a)-(b)
Internet—see Electronic Government;	
Information Technology; Telecommunications	
Interpreter and Transliterator Licensing	
Board—appointments and membership.....	141§2.19(a)-(b)
Interpreters and Transliterators—foreign	
language interpreters for the courts	142§16.3(a)-(c)
Interstate Cooperation—Indian gaming	
compact Class III games	6§1
Interstate Juvenile Supervision, State	
Council for—technical corrections,	
clarifications, and conforming changes	194§3
Investments—Global TransPark Escheat	
Fund investment maturity date	142§6.4
Iredell County	
Mooresville, Town of—see that heading	
Satellite register of deeds office	22
Irrigation Contractors' Licensing Board	
Appointments and membership	141§§1.22,
	2.20, 3.2
Licensing grandfathering clause	194§65.8(a)-(b)

J

Jackson County	
Cullowhee, Town of—see that heading	
Occupancy tax effective date postponed	100
TVA settlement funds use	200§20
John H. Kerr Reservoir—see Kerr Lake	
Johnston County	
Benson, Town of—see that heading	
Board of Education instructional day flexibility	5
Clayton, Town of—see that heading	
Open space funds use.....	122
Selma, Town of—see that heading	
Smithfield, Town of—see that heading	
Joint Legislative Administrative	
Procedure Oversight Committee—see	
Administrative Procedure Oversight Committee, Joint Legislative	

Joint Legislative Commission on Energy Policy —see Energy Policy, Joint Legislative Commission on	
Joint Legislative Committee on Workers' Compensation Insurance Coverage Compliance and Fraud Prevention and Detection —see Workers' Compensation Insurance Coverage Compliance and Fraud Prevention and Detection, Joint Legislative Committee on	
Joint Legislative Program Evaluation Oversight Committee —see Program Evaluation Oversight Committee, Joint Legislative	
Joint Legislative Workforce Development System Reform Oversight Committee —see Workforce Development System Reform Oversight Committee, Joint Legislative	
Jones County —investing in Innovation grant	142§7.17(a)-(c)
Judges —see Courts	
Judicial Council, State —appointments and membership	141§§1.40, 2.37(a)-(b)
Judicial Department	
Administrative Office of the Courts (AOC)—see that heading	
Appropriations	
Current operations	142§2.1
Foreign language interpreters for the courts	142§16.3(c)
Collection of Worthless Checks Fund use for IT and office equipment	142§16.7
Consolidated Judicial Retirement System (CJRS)—see Retirement	
Indigent Defense Services, Office of—see that heading	
Office of Indigent Defense Services—see Indigent Defense Services, Office of	
Salaries	142§25.1A(a)-(h)
Juries —see Courts	
Justice and Public Safety, Joint Legislative Oversight Committee on —technical corrections, clarifications, and conforming changes	194§23

Justice, Department of

Appropriations	
Consumer Protection Division	
National mortgage settlement	142§6.5(a)-(d)
Current operations	142§2.1
Attorney activity biannual reporting.....	142§15.2
Attorney General—see that heading	
Attorney position for tax fraud prosecution	142§22A.1
Consumer Protection Division	
Appropriations—see Appropriations, this heading	
Division of Criminal Information	
Name change from "Criminal Statistics"	182§1
Division of Criminal Statistics	
Name change to "Criminal Information"	182§1
Expunction of nonviolent felonies.....	191
Health Insurance Consumer Protection	
Unit transferred to Insurance Dept.	142§15.3(a)-(b)
Human Trafficking Commission—see that heading	
Itemized billing for services provided to agencies	142§15.1
Juvenile Justice Division	
Independent contractor/volunteer criminal records checks.....	83§5
State Crime Laboratory	
Evidence warehouse transfer.....	83§62
No elimination of positions	142§15.5
Western Regional Laboratory plan.....	142§15.4
Justice Reinvestment Act	188
Justus-Warren Heart Disease and Stroke Prevention Task Force —see Heart Disease and Stroke Prevention Task Force, Justus-Warren	
Juvenile Code	
Compliance with Miller v. Alabama (life sentences for minors).....	148
Receiving delinquent and undisciplined complaints.....	172§1
Review of protective supervision and violation sanctions	172§5
Secure custody guidelines.....	172§3
Technical corrections, clarifications, and conforming changes.....	194§41
Juvenile Crime Prevention Council — Project Challenge funds	142§14.7
Juvenile Institutions —see Correctional Institutions	

K

Kannapolis, City of —UNC acquisition	
and disposition of real property	142§9.10(b)
Kerr Lake —reallocation study	200§2(a)-(b)
Kindergarten and Preschool —see Education	
Kinston, City of	
Delegate authority to regulate taxis	139§2(a)-(b)
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Repeal of involuntary annexation.....	3§§1-2, 4
Knightdale, Town of —limit access to minors' information.....	139§1(a)-(b)
Kure Beach, Town of —renourishment project.....	166

L

Labor, Department of	
Appropriations-current operations.....	142§2.1
Commissioner's salary	142§25.01(c)-(d)
Notice of rights in agricultural labor inspections	187§10.1(b)-(c)
Oil and gas exploration health and safety standards.....	143§2(c)
Laboratories	
Accreditation	
Deadline extended for private and	
local labs	168§6
Scientist clarification and deadline extended.....	168§6.1
Analytical services tax refund extension	36§11(a)
State Crime Laboratory—see Justice,	
Department of	
Western Regional Laboratory plan.....	142§15.4
LaGrange, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Lake Lure, Town of —convey certain property	115
Lakes and Rivers (see also particular	
lake or river; Water Resources)	
Conservation Reserve Enhancement Program	145§4.3
Jordan and Falls Reservoir nutrient	
management strategies.....	187§12.1
Jordan water supply nutrient strategy	
and stormwater management for new development.....	201§11(a)-(e)
Riparian buffers	
Development in certain river basins.....	200§8(b)
Land shall not be treated as State land.....	200§8(a)
Land Use and Planning (see also Local	
Government)—oil and gas exploration	
regulation study.....	143§2(k)

Landlord and Tenant

Abandoned property disposal	17§2(a)-(b)
Ejectment for lease violation	17§3
Notice to State Bar of attorney's default on lease to protect client records	76
Removal of deceased tenant's property	17§§7-9
Security deposit permitted use.....	17§4
Smoke/carbon dioxide alarms	
Security deposit deduction for damage	92§3
Ten-year lithium battery requirement	92
Summary ejectment appeal bond and rent payment.....	17§1
Technical corrections, clarifications, and conforming changes.....	194§59(a)-(c)
Vacation rental cleaning fee	17§§5-6

Landlord Tenant Act 17**Landowners**

Immunity from liability for property used for emergency management activities.....	90§§2, 9
Oil and gas exploration landowner and public protections	143§4(a)-(i); 201§12(d)
Trespassing on posted property in Granville County	52

Laurinburg, City of

Eastern Municipal Power Agency Public meeting prior to rate changes	167
Revenue use.....	181

Law Enforcement

ALE Section Director's authority to shift personnel	83§3
Butner fire and police protection contract	50§3
Civil revocation for provisional licenses	168§3
Community college tuition waiver for certain emergency personnel	142§8.8
Design-build for Union County facilities	59
Fire and police protection by Butner Public Safety Authority	50§1
Forfeiture of retirement benefits for certain felonies	193§§13-16
Maximum length for law enforcement vehicles	33
Reserve for VIPER	142§2.1
SBI (State Bureau of Investigation)	
Appropriations-national mortgage settlement.....	142§6.5(a)-(d)
Technical corrections, clarifications, and conforming changes	83§37
School officials reporting certain acts to law enforcement	149§7
VIPER system.....	142§6.3(a)-(d)
Wayne County sheriff vacancy.....	25

Laws Amended or Repealed

1947 Session Laws	
Chapter 245	51§1
1949 Session Laws	
Chapter 212	51§1
1957 Session Laws	
Chapter 734	112
1963 Session Laws	
Chapter 50	125§§1-3
Chapter 126	24
Chapter 364	49
Chapter 778	125§1
1965 Session Laws	
Chapter 91	49
1973 Session Laws	
Chapter 388	123§1(a)
Chapter 501	101
1975 Session Laws	
Chapter 671	94
Chapter 717	106
1977 Session Laws	
Chapter 15	123§1(a)
Chapter 22	24
1979 Session Laws	
Chapter 89	24
Chapter 284	123§1(a)
1981 Session Laws	
Chapter 647	123§1(a)
1981 Session Laws (Regular Session 1982)	
Chapter 1183	51§1
1983 Session Laws	
Chapter 464	123§1(a)
Chapter 551	123§2(a)
Chapter 908	194§69
1983 Session Laws (Regular Session 1984)	
Chapter 952	106
1987 Session Laws	
Chapter 172	144
Chapter 508	123§1(a)
1989 Session Laws	
Chapter 793	123§1(a)
1989 Session Laws (Regular Session 1990)	
Chapter 821	194§69
Chapter 922	194§69
Chapter 936	142§9.4(d)
1991 Session Laws	
Chapter 55	144
Chapter 346	142§9.4(d)

Laws Amended or Repealed—continued

Chapter 577	94
1995 Session Laws	
Chapter 68	51§1
1997 Session Laws	
Chapter 275	116§2(a)-(b)
1997 Session Laws (Regular Session 1998)	
Chapter 92	123§1(a)
Chapter 130	116§2(a)
1999 Session Laws	
Chapter 237	142§8.3(c)
1999 Session Laws (Regular Session 2000)	
Chapter 3	142§9.4(e)-(f)
Chapter 34	101
2001 Session Laws	
Chapter 402	194§69
Chapter 496	142§9.4(g)
2003 Session Laws	
Chapter 35	123§1(a)
2005 Session Laws	
Chapter 9	116§1(a)
Chapter 144	142§6.4
Chapter 198	142§8.3(c)
Chapter 201	142§6.4
Chapter 276	142§6.4
Chapter 294	79§3.6
Chapter 441	55§2
2005 Session Laws (Regular Session 2006)	
Chapter 121	123§1(a)
Chapter 259	79§3.6
2007 Session Laws	
Chapter 140	98
Chapter 269	117
Chapter 320	190§3(b)
Chapter 323	142§§6.4, 7.13(a)-(b), 26.6
Chapter 527	79§3.6; 144
2007 Session Laws (Regular Session 2008)	
Chapter 90	194§52
Chapter 98	123§1(a)
Chapter 107	142§26.6
Chapter 134	79§3.6
Chapter 198	187§12(a)
Chapter 226	79§2.17(f)-(g)
Chapter 908	149§11.5
2009 Session Laws	
Chapter 29	24
Chapter 209	142§26.6

Laws Amended or Repealed—continued

Chapter 345	78§17
Chapter 451	142§14.2(a)
Chapter 451:	142§6.4
Chapter 474	142§20.3
Chapter 505	36§1
Chapter 521	194§71.6
Chapter 530	75
Chapter 575	142§14.2(a)
2009 Session Laws (Regular Session 2010)	
Chapter 31	142§§7.11(h), 7.13(d)-(e), 14.2(a), 16.4(a); 187§12(a)
Chapter 36	77§5; 149§11.5; 194§52
Chapter 87	141§3.1
Chapter 147	79§1.13(a)-(c)
2011 Session Laws	
Chapter 12	79§2.2(a)-(b)
Chapter 19	168§§6-6.1
Chapter 35	85§2
Chapter 39	187§14(a)
Chapter 72	79§1.11
Chapter 96	194§38
Chapter 109	55§2
Chapter 122	79§1.6
Chapter 129	181
Chapter 138	106
Chapter 145	13§2(b); 72§8; 83§§14, 62; 120§3(h); 134§1(c); 142§2.2(a), (h), 3.2, 5.1, 5.3(c), 6.1, 6.2, 6.4, 6.9, 6A.1, 6A.3(j), 6A.4, 6A.5(a), 6A.7, 6A.12(j), 7.8(a), 7.12, 7.18(a), 8.11(a)-(b), 9.2(b)-(c), 10.3(a)-(c), 10.9F(a)-(b), 10.10, 10.15, 10.18(a), 10.22, 10.23(g), 13.1, 13.7, 13.10-13.14A, 14.2(b), 14.5, 14.7, 16.7-16.8, 19.1, 22.1, 24.1(a), 24.8(b), 24.14, 24.18(a)-(b), 24.20, 25.01(a), 25.01(c), 25.02(a), 25.1(a), 25.1A-25.1E, 25.2, 25.2B, 25.2D, 25.7C(a), 25.7D(a), 25.10; 145§§4.7, 4.9; 194§39
Chapter 160	194§69
Chapter 163	86
Chapter 170	100
Chapter 173	3§5

Laws Amended or Repealed—continued

Chapter 176	141§3.2
Chapter 177	3§5
Chapter 228	85§3
Chapter 236	168§4; 194§63
Chapter 284	194§40
Chapter 307	168§§6-6.1
Chapter 311	194§66
Chapter 326	194§§41, 71.6
Chapter 339	194§43
Chapter 340	142§§6.4, 8.11(a)
Chapter 341	194§44
Chapter 343	201§5(b)
Chapter 344	18§3.11; 194§43
Chapter 387	201§2(b)
Chapter 391	142§§2.2(a), 6.9, 6A.7, 6A.12(j), 10.3(c), 10.9F(b), 10.15, 13.12, 19.1, 24.14, 24.20, 25.2; 194§§39, 42(a)-(b), 71.5(b)
Chapter 392	79§1.12(a)-(b)
Chapter 395	142§2.2(a)
Chapter 407	21
Chapter 490	15§2
2011 Session Laws (Regular Session 2012)	
Chapter 3	124§3
Chapter 12	90§7-12
Chapter 13	142§§25.6(a), 25.7(a)-(b)
Chapter 18	194§54
Chapter 56	194§53
Chapter 73	194§62.5
Chapter 77	149§11.5; 194§52
Chapter 78	194§68(c)
Chapter 83	194§21(b)
Chapter 92	194§50
Chapter 121	194§69.1
Chapter 126	194§62
Chapter 135	194§§56, 65.5
Chapter 142	145; 166; 194§§55.5, 70, 71.5(a)
Chapter 143	201§12(a)-(d)
Chapter 146	194§51.5
Chapter 149	194§45(e)
Chapter 152	194§61.5(a)-(b)
Chapter 155	194§47(a)-(c)
Chapter 158	194§65.3(a)

Laws Amended or Repealed—continued

Chapter 163	194§61
Chapter 175	194§65.3(b)-(c)
Chapter 197	194§71.8
Chapter 200	194§51
Chapter 391	194§71.5(a)

Leasing and Rentals (see also Contracts and Purchasing)

Design-build for Union County law enforcement/human services facilities	59
ECU health care service providers rental receipts.....	194§67
Nags Head may lease property for nursing home.....	30
Notice to State Bar of attorney's default on lease to protect client records	76
Old Clay County courthouse renovation/ lease exemptions.....	32
Residential schools building rental proceeds.....	142§7.8(c)
Rule in Dumpor's Case abolished.....	163§1
Termination for deceased service member	64

Leave and Vacation—see Salaries and Benefits**Legislative Ethics Committee**—sharing

information with Ethics Commission	182§3
--	-------

Legislative Research Commission

Appointment of additional members	194§66.7(a)
Co-chair designees.....	194§66.7(a)-(b)
Licensure by Medical Board of military trained personnel and by endorsement of spouses study.....	196§3
Regional Economic Development Commissions funding and alignment study	142§13.15

Legislative Retirement System (LRS)—see Retirement**Legislative Services Commission**—see

General Assembly

Lenoir County

Kinston, City of—see that heading
LaGrange, Town of—see that heading

Lexington, City of

Cooperative innovative high school pilot program	142§7.10
Repeal of involuntary annexation.....	3§§1-2, 4
Yadkin Valley Regional Career Academy pilot program.....	142§7.10

LGERS (Local Government Employees**Retirement System)**—see Retirement**Liability**

Immunity from liability for property used for emergency management activities.....	90§§2, 9
Oil and gas exploration landowner and public protections	143§4(a)-(i); 201§12(d)
School employee liability for ending fight/altercation	149§1
Volunteer health care services	155; 194§47(a)-(c)

License Plates and Registration (see also Motor Vehicles)	
Combined motor vehicle registration and property tax collection system	142§24.10(a)-(c)
Farm trailer/semitrailer exemption from registration	78§2
Header trailer registration exemption	78§3
Permanent plate eligibility limited	159
Public Safety Dept. official plates shifted to Governor's office	83§4
Registration renewal/property tax combined collection	
Conforming changes	79§§3.1-3.6
Effective date	79§3.6
Generally	142§24.10(a)-(c)
Renewal blocked for unpaid tolls	85§10
Special registration plates technical correction	79§1.12(a)-(b)
Technical corrections, clarifications, and conforming changes	194§§45.7, 57
License to Give Trust Fund Commission—	
appointments and membership	141§§1.23, 2.10
Licenses and Permits	
Adult care licensure block grant	142§10.25(a)
Business licenses issued report	187§10.3
Charitable Licensing Division fees treatment	142§21.1
Coastal development permit setback requirement	202§3(a)-(b)
Coastal fishing license and vessel titling fees study	190§1(a)-(c)
Drivers licenses—see that heading	
Environmental permit processing times tracking and report	187§13(a)-(b)
Horizontal drilling and hydraulic fracturing	143§3(a)-(d)
Mental health licensure block grant	142§10.25(a)
No special use/building permits for delinquent taxpayer in Sampson County	22§§1-2
Noncontiguous property local water supply watershed program compliance	200§7
Pawnbroker continued validity	46§32
Register of licensed foster homes	153§7
Regulation of sales and purchases of metals	46§28
Sanitary landfill permit duration and review periods	187§15.1
Technical corrections, clarifications, and conforming changes	194§46(a)-(b)
Type I solid waste compost facility discharge permit	200§5

Licensing and Certification (see also particular licensing board)	
Bail Agents Association sole source for training	183
Child care provider criminal history checks.....	160
Clinical addiction specialist title	
changes for Medicaid/Medicare purposes	72§§5-7
Criminal records check for transporters	
of household goods.....	9
Forensic scientists accreditation	
clarified and deadline extended.....	168§6.1
Hearing aid dealer/fitter	
apprenticeship waiver correction.....	194§66
Irrigation contractor licensing grand-fathering clause.....	194§65.8(a)-(b)
Licensure by endorsement for military personnel and spouses	
Generally	196
Medical Board study	196§3
Lien agent registration	158§3
Mortgage brokers, bankers, and servicers assessments.....	37
Natural hair care licensure deadline extended.....	194§71.6
No funeral service license for those convicted of sex offense	194§71
Occupational licensing boards exempt from paying for audits	142§17.1
Private and local labs accreditation deadline extended	168§6
Psychologist changes for Medicaid/Medicare purposes.....	72§1
Social worker associate changes for Medicaid/Medicare purposes	72§§2-4
Volunteer health care services	155; 194§47(a)-(c)
Liens —see Debtor and Creditor	
Lieutenant Governor, Office of	
Appropriations-current operations.....	142§§2.1
Salary	142§25.01(c)-(d)
Literacy —see Education	
LMEs (Local Management Entities)	
1915(b)(c) Medicaid Waiver	
Implementation.....	151§§1-2
Management only by LME	151§13(a)-(b)
Two year moratorium on withdrawal from LME	151§7(a)-(b)
Adding counties to catchment area authorized.....	151§6
Adult guardianship authorization repealed.....	151§12(a)-(e)
Area boards	
Annual training.....	151§4(a)-(b)
Structure	151§3(a)-(b)

LMEs (Local Management Entities)—continued

Training curriculum.....	151§4(b)
Authority to borrow money	151§9(a)
Board salary setting authority.....	151§11(a)-(c)
Competitive health care information not public record.....	151§10
Convey certain AMHC property to ECBH.....	113
Hold title to real property	151§8
No county commissioner approval for area director	151§9(a)
Provider endorsement functions	66
Reduction of acute care admissions and crises services by LMEs study	128§2
Technical corrections, clarifications, and conforming changes	83§43
Loans (see also Financial Services and Institutions; Mortgages and Deeds of Trust)	
Hurricane Irene disaster loans	142§6.7(a)-(b)
Pawnbrokers and cash converters	
Recodification	46§§1-14
Technical corrections	46§§24-25, 30
Lobbying —see Ethics; General Assembly	
Local Government (see also Counties; Municipalities)	
Child care allocation formula	142§10.2A
Contingency contracts for audits/ assessments prohibited	152§§2, 4; 194§61.5(a)-(b)
County zoning of deannexed areas	124§3
Debt—see Debt-Local Government	
Direct control of human service commissions/boards/agencies authorized.....	126§§1-2
Ecosystem Enhancement Program compensatory mitigation	201§5(a)-(b)
Firemen's Local Relief Fund Board of Trustees residency requirement.....	45
Forfeiture of retirement benefits for certain felonies	193§§3-4
Greater Asheville Regional Airport Authority no public official.....	194§69.1
High-speed internet access in unserved areas grants.....	86
Improve local bond efficiency.....	156§§1-3
Juvenile facilities standards local compliance.....	172§4
Limit access to minors' information in certain cities.....	139§1(a)-(b); 194§70.5(a)
LMEs (Local Management Entities)—see that heading	
Local Government Employees Retirement System (LGERS)—see Retirement	
Metropolitan Planning Organization and Rural Planning Organization covered entities.....	142§24.16(a)-(d)
Metropolitan Sewerage Districts Appointments and membership.....	203§§1-3
Powers	203§4

Local Government —continued	
Municipal service district effective date.....	156§4
NC Pre-K standard decision-making process for awarding slots	142§10.1(f)
New Hanover Commissioners accountable for Airport Authority work.....	10
Noncontiguous property water supply watershed program compliance.....	200§7
Oil and gas exploration regulation study.....	143§2(k)
Permanent plate eligibility limited	159
Reentry councils	168§5(c)
Rewrite/recodification of Emergency Management Act	12
Riparian buffer land shall not be treated as State land.....	200§8(a)
Sales tax option for beach nourishment study.....	189§1
Solid waste technical correction	201§3
Local Government Bond Act	156§§2-3
Local Government Budget and Fiscal Control Act	156§1
Local Government Commission	
I-77 high occupancy toll project.....	184
Improve local bond efficiency.....	156§§1-3
Water Infrastructure Fund closing fee conforming change	142§12.01
Local Government Employees Retirement System (LGERS) —see Retirement	
Local Government Employees Retirement System (LGERS), Board of Trustees	
Medical Board appointments.....	185§4(a)
Pension Accumulation Fund accrued liability.....	178§3
Local School Administration Units (LEAs) —see Education; Education, Boards of (local)	
Locksmith Licensing Board —appointments and membership	141§§1.24, 2.21
Long-Term Care Facilities —see Nursing Homes	
Longitudinal Data System Board —created.....	133§1(a), (d)
Lottery Commission, State	
Appointments and membership	141§§1.25, 2.28(a)-(b)
Appropriations	142§5.3(a)-(i)
Salaries.....	142§25.2
"Shareholder" definition for potential contractors.....	194§64
Louisburg, Town of	
Eastern Municipal Power Agency Public meeting prior to rate changes	167
Revenue use.....	181

LRS (Legislative Retirement System)—see Retirement**Lumberton, City of**

- Eastern Municipal Power Agency
 - Public meeting prior to rate changes 167
 - Revenue use..... 181
- Southeastern NC Agricultural Center
and Farmers Market study 142§11.3(a)-(b)

M**Macon County**—TVA settlement funds use 200§20**Madison County**

- Investing in Innovation grant..... 142§7.17(a)-(c)
- TVA settlement funds use 200§20

Magistrates—see Courts**Manufactured Housing Board**—

- appointments and membership 141§§1.26, 2.22,

Manufacturing—see Commerce**Marine Fisheries Commission**

- Crustacean and Shellfish Advisory
Committees combined 190§4(a)-(c);
200§16(a), (c)
- Fishery Resource Grant Program Committee.....200§16(b)
- Northern and Southern Advisory
Committees membership limited..... 190§4(c);
200§16(a)-(b)
- Supermajority for certain issues 190§5;
200§17

Marion, City of

- Annexation for sidewalk improvement 97
- Official spring livermush festival 29

Marriage and Family

- Adoption—see that heading
- Child support—see Child Custody and Support
- Family court programs oversight..... 142§16.2
- Innocent spouse clarification 79§2.5
- Intestate property passed to surviving spouse 71§1
- Mandatory Medicaid mental health
services for children provider..... 72§8
- Superior court judge may perform marriages..... 194§65.4(a)-(b)

Martin County

- Fire protection districts 111
- Hamilton, Town of—see that heading
- Robersonville, Town of—see that heading

Marvin, Village of—repeal of involuntary annexation 3§§1-2, 4**Massage and Bodywork Therapy,**

- Board of**—appointments and membership 141§1.27

Matthews, Town of—deannexation 110§1

Mayodan, Town of—town manager
residency requirement repealed 101

McDowell County
Marion, City of—see that heading
TVA settlement funds use 200§20

Mecklenburg County
Charlotte, City of—see that heading
Cornelius, Town of—see that heading
Davidson, Town of see that heading
Huntersville, Town of—see that heading
Matthews, Town of—see that heading

Mediation and Arbitration
Beer franchise law clarifications 4
Dismissal fee discretion eliminated.....194§63.3(b)
Referral of citizen-initiated misdemeanor warrants 194§63.3(a)
Waiver of mediation fees require finding of just cause..... 142§16.6(a)-(c)

Medicaid
1915(b)(c) Waiver
Implementation LME changes 151§§1-2
Management by LME..... 151§13(a)-(b)
Two year moratorium on withdrawal from LME 151§7(a)-(b)
Appropriations contingent on adequacy of funding 142§10.9G
Critical Access Behavioral Health Agencies..... 171
Electronic prior authorization for prescriptions study..... 142§10.8A
Eligibility/COLA disregard 142§10.6(a)-(c)
Funding adjustments..... 2§1(a)-(c)
Management flexibility reductions to cover shortfalls..... 142§6.14(a)-(b);
145§1.2

Mandatory mental health services for
children added providers 72§8

Nonemergency medical transportation RFP..... 142§10.7(a)-(d)

Organization study..... 142§10.9B(a)-(b)

Outpatient imaging services 142§10.9D(a)-(b)

Personal care services
ADL eligibility 142§10.9F(a)-(g)
Group homes 194§70

Pharmacy services 142§10.8

Physical, occupational, and speech therapy limits revised..... 142§10.5

Program disclosures..... 142§6.12

Provider rate reduction authority removed..... 142§10.9C(a)-(b)

Reclassify vacant Budget and Management positions 142§22.2

Repairs and Renovations Reserve Account transfer 57

Smart card pilot program 142§10.9(a)-(k)

Special care/memory care units home/
community-based services program.....142§10.9E(a)-(c);
145§3.5

Title changes for certain licensed
professionals for program purposes 72

Medical Board

- Licensure of military trained personnel
and by endorsement of spouses study 196§3
- Volunteer health care services 155; 194§47(a)-(c)

Medicare—title changes for certain

- licensed professionals for program purposes 72

Mental Health

- Charitable residential treatment facility licensure exemption 15§1
- Critical Access Behavioral Health
 - Agencies providers of Medicaid services 171
- Inpatient psychiatric beds funds 142§10.10
- Involuntary commitment safety/containment measures 128§1
- Licensure block grant 142§10.25(a)
- LMEs (Local Management Entities)—see
that heading
- Mandatory Medicaid services for children providers 72§8
- Services block grant 142§10.25(a)
- Services delivery study 142§10.11(a)-(b); 145§3.4
- Sterilization Victims Foundation 145§5.1
- Technical corrections, clarifications,
and conforming changes 194§8
- Title changes for certain licensed
professionals for Medicaid/Medicare purposes 72
- Transitions to community living initiative 142§10.23A(a)-(j)

**Mental Health, Developmental Disabilities,
and Substance Abuse Services, Commission**

- for—appointments and membership 141§§1.28, 2.4

Metals (Non-precious)—see Scrap Yards and Dealers**Metropolitan Sewerage Districts Act** 203**Military Bases**—see Armed Forces**Mining and Energy Commission**

- Appointments and membership 141§§1.29(a)-(b), .23(a)-(b);
143§1(a), (g); 187§1.1
- Compulsory pooling study 143§2(l)
- Continuity of Mining Commission rules 143§1(c)
- Created 143§1(b)
- Horizontal drilling and hydraulic fracturing
 - Allowed 143§3(a)-(d)
 - Regulation 143§2(a)-(n)
- Oil and gas exploration
 - Identification of regulation costs 143§2(j)
 - Local government regulation study 143§2(k)
 - Regulation 143§2(a)-(n)
- Staff positions 142§12.1

Mining and Mineral Exploration

- Compulsory pooling study 143§2(l)
- Horizontal drilling and hydraulic fracturing
 - Allowed 143§3(a)-(d)

Mining and Mineral Exploration—continued

Regulation	143§2(a)-(n)
Landowner and public protections	143§4(a)-(i); 201§12(d)
Oil and gas exploration	
Identification of regulation costs.....	143§2(j)
Local government regulation study.....	143§2(k)
Regulation	143§2(a)-(n)
Mining Commission —repealed and replaced by Mining and Energy Commission.....	143§1(a)-(h)
Minorities —sterilization Victims Foundation	145§5.1

Minors

Adoption—see that heading	
Boys and Girls Clubs block grant.....	142§10.25(a)
Child abuse and neglect—see that heading	
Child advocacy centers block grant.....	142§10.25(w1)
Child support—see Child Custody and Support	
Children with disabilities funds allocations.....	142§7.1
Child's "next friend"	71§2(a)-(e)
Child's year's allowance.....	71§§2(a), 3
Compliance with Miller v. Alabama (life sentences for minors).....	148
Cyberbullying	149§§3, 9
Expunction of nonviolent felonies.....	191
Foster Care—see that heading	
Juvenile Code—see that heading	
Juvenile delinquency and substance abuse prevention plan	83§13
Maternal and child health block grant	142§10.25(a), (bb)-(cc); 145§3.1(b)
Name disclosure restrictions in school bus crash	147
Personal information access	
Local government programs in certain cities	139§1(a)-(b); 194§70.5(a)
Partnership for Children participants	67
Preschool programs for at-risk children	77§3
Sale of a minor.....	153§§1-4
State Health Plan dependent child definition.....	173§1
Substance abuse prevention and treatment block grant	142§10.25(a)
Teen pregnancy initiative block grant	142§10.25(a)
Transition plans/teams for at-risk students	77§4
Visitation Rights—see Child Custody and Support	
Mitchell County —TVA settlement funds use.....	200§20
Montgomery County —school calendar pilot program.....	142§7.4
Monuments —see Historic Sites and Monuments	

Moore County

- Begin school year early to accommodate US Open 27§2
- Foxfire Village, Town of—see that heading
- School bus use for US open..... 27§1

Mooresville, Town of—deannexation 137**Morganton, City of**

- Deannexation 61
- School for the Deaf—see Public
Instruction, Department of

Morrisville, Town of

- Limit access to minors' information 139§1(a)-(b)
- Municipal service district technical change..... 79§1.11
- Sterling Montessori School added to
State Health Plan 192§1

Mortgages and Deeds of Trust (see also Property)

- Alternative forms for satisfaction 150§§1-2
- Brokers, bankers, and servicers assessments..... 37
- Filing false security agreements penalty 150§6
- Mortgage satisfaction false filing 150§5
- National mortgage settlement appropriations..... 142§6.5(a)-(d)
- Residential mortgage fraud..... 150§5
- State Home Foreclosure Prevention Project
 - Conforming change 79§2.17(a)-(h)
 - Sunset removed 79§2.17(a)-(h)

Motor Vehicle Violations and**Infractions (see also Motor Vehicles)**

- Civil revocation for provisional licenses 168§3
- Enforcement of motor carrier laws by
Dept. of Public Safety..... 78§10
- Move Over Law for highway
maintenance and utility vehicles 14
- Technical corrections, clarifications,
and conforming changes..... 194§9
- Towing of vehicles impeding farmers'
market authority for Asheboro 105
- Use of mobile telephone/device by
motor carrier unlawful..... 78§9

Motor Vehicles

- Alternative fueled vehicles purchase
and infrastructure study 186§1(a)-(c)
- Drivers licenses—see that heading
- Electric vehicle charging stations at rest stops 186§2(a)-(d)
- EMC authority to add counties to
emissions program repealed 200§12(a)-(b)
- Exempt new vehicles from emissions inspection 199
- Forfeiture of vehicle used to transport
illegally obtained metals..... 46§29
- Intrastate motor carriers to be marked 41

Motor Vehicles—continued

Maximum length for emergency/law enforcement vehicles	33
Motorcycles and mopeds—see that heading	
Purchase of vehicles for scrap and parts	46§30
Racing—see Sports	
Registration—see License Plates and Registration	
Technical corrections, clarifications, and conforming changes	194§10
Towing—see Motor Vehicle Violations and Infractions	
Use of mobile telephone/device by motor carrier unlawful	78§9
Vehicle forfeiture report by local superintendent repealed	142§7.13(c)
Weight limits/penalties clarification	78§4
Window tinting restrictions	78§8
Motor Vehicles, Division of	
Appropriations-current operations-Highway Fund	142§3.1
Commissioner's salary	142§25.1(a), (b), (f)
Drivers licenses—see that heading	
Emissions inspection exemption for new vehicles	199
Jury lists	180
Motor vehicle registration renewal/property tax collection effective date	79§3.6
Next Generation Secure Drivers License System completion certification	85§12
Permanent plate eligibility limited	159
Technical corrections, clarifications, and conforming changes	83§36
Motorcycles and Mopeds (see also Motor Vehicles)	
Licensure testing and instructional courses	85§1
Safety program insurance discount for armed services members	176
Municipalities (see also Counties; Local Government)	
Annexation—see that heading	
Delinquent stormwater utility fee collection by certain cities	55§2
Eastern Municipal Power Agency Public meeting prior to rate changes	167
Revenue use	181
Local sales tax option for beach nourishment study	189§1
Relocation of municipal utilities by DOT	145§6.1
Museum of Art, Board of Trustees	
Appointments and membership	120§1(e)
Director's salary	142§25.1(a), (d), (f)

Museums (see also Cultural Resources)	
Grassroots Science Program funding reductions.....	142§13.11
Historic sites and museums savings and revenue enhancements study	93§1
Museum of Art, Board of Trustees—see that heading	
State Art Society repealed	120§1(a)-(e)
State Historic Sites and Museums Fund	
North Carolina Transportation Museum not included.....	142§18.2
To include State history museums	142§18.2

N

Nags Head, Town of —may lease property for nursing home	30
Narcotics (see also Controlled Substances; Substance Abuse)—post-release supervision in drug cases	188§§5-6
Nash County	
Rocky Mount, City of—see that heading	
Natural Heritage Trust Fund, Board of Trustees —fund use clarification	145§4.4
NC Forest Service —see Agriculture and Consumer Services, Department of	
Neuse River —development on riparian buffer	200§8(b)
New Bern, City of	
Eastern Municipal Power Agency Public meeting prior to rate changes	167
Revenue use.....	181
Firemen's Supplemental Retirement Fund repealed	123§2(a)-(b)
New Hanover County	
Carolina Beach, Town of—see that heading	
Coastal area county designation	202§1
Commissioners accountable for Airport Authority work	10
Kure Beach, Town of—see that heading	
Lower Cape Fear Water and Sewer Authority design-build water transmission line.....	60
Technical corrections, clarifications, and conforming changes.....	194§35
Wilmington, City of—see that heading	
New Schools Project —investing in Innovation grant	142§7.17(c)
911 Board	
Appointments and membership	141§§1.30(a)-(b), 2.1
PSAPS operating standards effective date.....	132
Nonferrous Metals —see Scrap Yards and Dealers	

- Nongovernmental Organizations**—see
Corporations, Nonprofit
- North Carolina Arboretum, Board of Directors**—see
Arboretum, Board of Directors
- North Carolina Housing Partnership**—
see Housing Partnership, North Carolina
- North Carolina Supplemental
Retirement Board of Trustees**—see
Supplemental Retirement Board of Trustees
- North Carolina's Northeast
Commission**—see Northeast
Commission, North Carolina's
- Northampton County**—Halifax-
Northampton Regional Airport
Authority powers amended 116§2(a)-(b)
- Northeast Commission, North
Carolina's**
Allocation 142§13.12;
145§4.8
Appointments and membership 141§§1.31, 2.32
- Northeastern North Carolina Regional
Economic Development Commission**—
see Northeast Commission, North Carolina's
- Notary Public**—validation of certain acts 194§65
- Notification**
Irrigation contractor licensing grand-fathering 194§65.8(b)
No contact order service 19
Notice of attorney's default on lease
to protect client records 76
Oil and gas rights disclosures in real
estate sales 143§5
School personnel liability insurance
coverage 142§7.9(a)-(b)
- Nursing** (see also Health Services)
School nurse utilization review
extended 142§6.2
Volunteer health care services 155;
194§47(a)-(c)
- Nursing, Board of**—appointments and
membership 141§2.42
- Nursing Homes**
Adult care licensure block grant 142§10.25(a)
Equalize in-home, adult care home, and
rental assistance payments 142§10.23(a)-(h)
Nags Head may lease property for
nursing home 30
Transitions to community living initiative 142§10.23A(a)-(j)
- Nutrition**—see Public Health

O

- Occupations**—see Licensing and Certification; particular occupation
- Ocean Isle Beach, Town of**—satellite annexation cap removed 96
- Office of Lieutenant Governor**—see Lieutenant Governor, Office of
- Office of State Budget and Management**—see Budget and Management, Office of State
- Office of State Personnel**—see State Personnel, Office of
- On-Site Wastewater Contractors and Inspectors Certification Board**—appointments and membership 141§1.32
- Onslow County**
Coastal area county designation 202§1
Swansboro, Town of—see that heading
- Orange County**
Alamance County line 108
Chapel Hill, City of—see that heading
- Oxford, City of**—ABC profits distribution 49

P

- Pamlico County**
Coastal area county designation 202§1
Hurricane Irene disaster loans 142§6.7(a)-(b)
- Pamlico River**—development on riparian buffer 200§8(b)
- Parking and Parking Structures** (see also Motor Vehicle Violations and Infractions; Motor Vehicles)
Community college campus fine increase 142§8.9
Towing of vehicles impeding farmers' market authority for Asheboro 105
- Parks and Recreation Areas**
Community college tuition waiver for certain emergency services personnel 142§8.8
Open space funds use by Johnston County 122
Zoos, parks, and aquariums savings and revenue enhancements study 93§2
- Parks and Recreation Authority**—appointments and membership 141§§1.33, 2.24

Parole and Probation (see also Sentencing)

Alcohol monitoring for pretrial release, probation, and mitigated punishments.....	146§§1-9
Confinement in response to violation clarification	188§2
Intense supervision rule-making.....	83§9
Loss of public assistance for probation violator.....	170
Post-release supervision in drug cases.....	188§§5-6
Probation officer	
Position classifications	83§2
Visits to schools	149§6
Reimprisonment for violation supervision	188§4
Second witness designation in punishment for violation.....	188§1(a)-(b)
Secretary of Public Safety's duties related to officers	83§2
Technical corrections, clarifications, and conforming changes.....	194§6, 7
Technical revocation center study	142§14.3

**Partnership for Children, Inc., Board
of Directors**

Limited access to participating minors' information	67
Matching funds requirements	142§10.3(c)
Read NC pilot program.....	142§10.4(a)-(e)
Salaries.....	142§10.3(a)-(b)
Subsidy expenditure reduction	142§10.3(d)

Pasquotank County

Coastal area county designation	202§1
Elizabeth City, City of—see that heading	

Pawnbrokers—see Loans**Pawnbrokers and Cash Converters**—

licenses and permits continued validity.....	46§32
--	-------

Pawnbrokers and Cash Converters

Modernization Act	46
--------------------------------	----

Pender County

ABC

Board membership selection	125§1
Revenue distribution	125§3
Store requirement	125§2
Atkinson, Town of—see that heading	
Burgaw, Town of—see that heading	
Coastal area county designation	202§1
County commissioner districts	51
Lower Cape Fear Water and Sewer Authority	
design-build water transmission line.....	60
St. Helena, Village of—see that heading	
Surf City, Town of—see that heading	
Topsail Beach, Town of—see that heading	
Watha, Town of—see that heading	

Perquimans County

- Coastal area county designation 202§1
- Convey certain AMHC property to ECBH..... 113
- Hertford, Town of—see that heading

Person County—delinquent stormwater

- utility fee collection 55§1(a)-(c)

Personnel, Office of State—see State

Personnel, Office of

Pharmaceuticals (see also Controlled

Substances; Narcotics)—Medicaid

electronic prior authorization for

- prescriptions study 142§10.8A

Pharmacies and Pharmacists

Medicaid

- Pharmacy services 142§10.8

- Smart card pilot program..... 142§10.9(a)-(k)

Technical corrections, clarifications,

- and conforming changes..... 194§60.5

- Volunteer health care services 155;

194§47(a)-(c)

Physical Therapy—see Health Services**Physicians** (see also Health Services)

- Graduates in primary care report date change 142§9.5

- Volunteer health care services 155;

194§47(a)-(c)

Piedmont Triad Regional Partnership—

- allocation..... 142§13.12;

145§4.8

Pikeville, Town of

Eastern Municipal Power Agency

- Public meeting prior to rate changes 167

- Revenue use..... 181

Pilot Programs (see also Studies)

ADAP enrollment in Inclusive Health

- North Carolina 142§10.16(a)-(c)

- Cooperative innovative high school 142§7.10

Domestic violence/civil no-contact

- cases electronic filing sunset extended..... 142§16.4(a)-(b)

- Electronic supervision device use extension 15§2

- Medicaid smart card pilot program 142§10.9(a)-(k)

- NC Pre-K per classroom funding 142§10.1(b)

- Read NC..... 142§10.4(a)-(e)

- School calendar program for certain counties 142§7.4

- Yadkin Valley Regional Career Academy 142§7.10

Pitt County

Ayden, Town of—see that heading

Farmville, Town of—see that heading

Greenville, City of—see that heading

Planning and Zoning (see also Local Government; Municipalities)	
Annexation—see that heading	
County zoning of deannexed areas	124§3
Deannexation—see Annexation	
Greater Asheville Regional Airport	
Authority zoning jurisdiction removed	121§2.1(a)-(b)
Research and Production Service	
Districts expanded purposes	73
Urban Research Service Districts	73; 194§62.5
Plants and Trees (see also Environment)	
—Galax and venus fly trap protections	200§18
Political Parties (see also Elections)—	
Wayne County sheriff vacancy	25
Pollution —see Environment	
Ports (see also Coastal Resources)	
International terminal expenditures prohibited.....	142§26.3(a)-(b)
Port Enhancement Zone	
Definition change	187§15.2(a)-(b)
Technical correction	74§6(a)-(b)
Specialized equipment sales tax refund.....	74§7
Ports Authority, State	
Appointments and membership	141§§1.34, 2.29
International terminal expenditures prohibited.....	142§26.3(a)-(b)
Post-Release Supervision and Parole Commission	
Part-time member transition to full-time	142§25.1(g)
Salaries	
Chair	142§25.1(a)
Full-time members	142§25.1(a)
Part-time members	142§25.1(a)
Supervision in drug cases	188§6
Poverty —see Welfare	
Precious Metals (see also Pawnbrokers; Scrap Yards and Dealers)	
Recodification.....	46§§15-23
Technical corrections and conforming changes	46§§24-25, 30
Pregnancy —see Women	
President Pro Tempore (North Carolina Senate) —see General Assembly	
Pretrial Release —see Parole and Probation; Surety and Fidelity	
Principals —see Teachers and Education Administrators	
Privacy (see also Records)	
Disclosure of reporter information to certain authorities by social services	153§6
Electronic toll collection information confidentiality	78§12

Privacy—continued

Employer access to employee medical information	135§2
Employer information provided by Rate Bureau to Industrial Commission	135§1(a)-(b)
Jury lists	180
Limit access to minors' information	
Local government programs in certain cities	139§1(a)-(b); 194§70.5(a)
Partnership for Children participants	67
Name disclosure restrictions in school bus crash	147
NC Facts Program.....	134§6(a)-(b)
Non-release of certain foster care information without penalty	153§7
Notice to State Bar of attorney's default on lease to protect client records	76
Release of information provided by Rate Bureau	194§65.5
Student data disclosure	
Nonpublic schools	133§2
Private colleges and universities	133§3
Private Protective Services Board—	
appointments and membership	141§§1.35, 2.33
Private Schools	
Private colleges—see Colleges and Universities	
Private elementary and secondary schools—see Education	
Privatization	
IT services.....	142§6A.6(a)-(c)
Pre-construction activities	
privatization for transportation projects	142§24.2
Tax Information Management System public-private partnership.....	142§6A.3(a)-(k)
Professional Education	
Area board annual training	151§4(a)-(b)
Bail Agents Association sole source for training	183
ESC training and employment account funds report repealed	142§8.3(c)
School employee professional development evaluation repealed	142§7.13(f)
Program Evaluation Oversight Committee, Joint Legislative—studies	
impact statement	80

Property

Abandoned tenant property disposal	17§2(a)-(b)
Broker price opinions	163§§2-5; 194§61
Child's "next friend"	71§2(a)-(e)
Co-owners/right of survivorship and simultaneous death	69
Coastal development permit setback requirement.....	202§3(a)-(b)
Convey certain property by sale/ lease authorized for Lake Lure	115
Development on riparian buffer in certain river basins.....	200§8(b)
Ecosystem Enhancement Program compensatory mitigation	201§5(a)-(b)
Escheats records retention	187§9
Gang property a public nuisance	28
Immunity from liability for property used for emergency management activities.....	90§§2, 9
Intestate property passed to surviving spouse	71§1
LME may hold title to real property	151§8
Mechanics lien on real property	158; 175; 194§65.3(b)-(c)
Municipal service district technical change.....	79§1.11
Nags Head may lease property for nursing home.....	30
Noncontiguous property local water supply watershed program compliance	200§7
Oil and gas rights disclosures	143§5
Passing title by will.....	68
Removal of deceased tenant's property	17§§7-9
Riparian buffer land shall not be treated as State land	200§8(a)
Rule in Dumpor's Case abolished.....	163§1
State-owned land and submerged land study	194§71.5(c)-(d)
Taxation and valuation of leasehold interests in exempt property study.....	189§2
Technical corrections, clarifications, and conforming changes.....	194§15
Trespassing on posted property in Granville County	52
UNC acquisition and disposition of real property.....	142§9.10(a)-(d)
Unclaimed property—see Escheats, this heading	
Western NC Agricultural Center property conveyed to State	121§2.2(a)-(b)
Proprietary Schools, State Board of	
Appointments and membership	141§2.35
Powers and duties	142§8.9A(a)-(c)
Psychiatric Hospitals —see Hospitals and Clinics; Mental Health	

Psychologists (see also Mental Health)— title changes for Medicaid/Medicare purposes	72§1
Psychology Board —inactive status for failure to complete supervised experience repealed	72§1
Public Buildings —see Buildings	
Public Defenders (see also Courts)—salaries.....	142§25.1A(a)-(h)
Public Health (see also Safety)	
AEDs in State buildings.....	198
ALS Association block grant.....	142§10.25(a), (s1)
Child care facility nutrition rules	142§10.1(c1)
Community-based health and wellness initiatives funds	142§10.14(a)-(b)
CPR instruction and graduation requirement for high school	194§71.8; 197
Div. of Public Health duties transfer to UNC study	126§5
HIV/STD prevention and community planning block grant.....	142§10.25(a); 145§3.1(c)
Prevent blindness	142§10.25(a), (s)
Public health improvement incentive program.....	126§3
Ten essential public health services.....	126§4; 194§62
Tobacco cessation block grant.....	142§10.25(a); 145§3.1(e)
Public Health, Commission for	
Mobile food unit sanitation requirements.....	187§16.2
Oil and gas exploration including horizontal drilling and hydraulic fracturing	143§2(i)
Private drinking wells setback variances.....	200§11(a)-(c)
Sanitary landfill permit duration and review periods	187§15.1
Testing wells for volatile organic compounds.....	187§12(a)-(b)
Public Instruction, Department of	
Abstinence education block grant.....	142§10.25(bb)
Alternative fueled vehicles purchase and infrastructure task force	186§1(a)-(c)
Appropriations	
Current operations	142§2.1
Instructional days increase funding.....	142§7A.6(a)-(b)
Liability insurance coverage notification funds	142§7.9(b)
Charges from IT Internal Service Fund	142§6A.5(c)
Dropout Prevention, Committee on— see that heading	
Eastern North Carolina School for the Deaf—see Residential schools, this heading	
Governor Morehead School for the Blind—see Residential schools, this heading	
Longitudinal data system.....	133§1(a)-(c)

Public Instruction, Department of—continued

Residential schools	
Building rental proceeds.....	142§7.8(c)
Closure plan repealed.....	142§7.8(a)
Improvement plans.....	142§7.3(a)-(h)
No personnel transfers.....	142§7.8(b)
School for the Deaf—see Residential schools, this heading	
School nurse utilization review extended.....	142§6.2
State agency teachers' compensation.....	142§25.7E
Superintendent's salary.....	142§25.01(c)-(d)

Public Meetings

Eastern Municipal Power Agency meeting prior to rate changes.....	167
Property insurance rate making process.....	162

Public Officials

Carteret County Commissioners redistricting allowed.....	58
Filing false lien against public official/employee.....	150§4
Firemen's Local Relief Fund Board of Trustees residency requirement.....	45
Forfeiture of retirement benefits for certain felonies.....	193
Greater Asheville Regional Airport Authority no public official as member.....	194§69.1
Mayodan town manager residency requirement repealed.....	101
Pender County commissioner districts.....	51
Wayne County sheriff vacancy.....	25

Public Records—see Records**Public Safety, Department of**

Appropriations	
Current operations.....	142§2.1
Division of Juvenile Justice	
Federal funds used as matching unds.....	142§14.4
Multipurpose group homes.....	142§14.6
Greensboro Readiness Center.....	145§6A.1
Project Challenge funds.....	142§14.7
VIPER system.....	142§6.3(a)-(b)
Capital improvement projects.....	164§8
Division of Administration	
Research and Planning Section	
Created.....	168§5(a)-(b)
Local reentry councils.....	168§5(c)
Division of Adult Correction	
Alcoholism and chemical dependency treatment program.....	83§§9-10
Appointment of chief deputy secretary.....	83§11
B.R.I.D.G.E. Youthful Offenders	
Program priority/reporting.....	142§11.1(a)-(b)

Public Safety, Department of—continued

Continuous alcohol monitoring systems for pretrial release, probation, and mitigated punishments	146§1-9
Criminal Justice Partnership Program.....	83§8
Release dates	142§14.1
Research and Planning Section repealed.....	168§5(a)
Section of Community Corrections	
Intense supervision rule-making.....	83§9
Second witness designation in punishment for probation violation	188§1(a)-(b)
Substance abuse, records management, extradition duties	83§8
Technical corrections, clarifications, and conforming changes	83§§15-28, 32-34, 36-49, 51-52, 55-57, 60
Technical revocation center study.....	142§14.3
Division of Emergency Management	
Geodetic Survey Section transfer from DENR	142§12.4(a)-(i)
Hurricane Irene disaster loans	142§6.7(a)-(b)
State Emergency Operations plan revision for agricultural matters.....	90§§5, 12
State Emergency Response Team defined/codified	90§§3-4, 10-11
Division of Juvenile Justice	
Appointment of chief deputy secretary	83§12
Appropriations—see Appropriations, this heading	
Independent contractor/volunteer criminal records checks.....	83§5
Juvenile delinquency and substance abuse prevention plan.....	83§13
Secret peeping exclusion for personnel.....	83§1
Youth Development Section technical correction	83§59
Division of Law Enforcement	
Alcohol Law Enforcement Section	
Director's authority to shift personnel.....	83§3
Regional offices requirement repealed	83§14
Highway Patrol	
Regional offices requirement repealed	83§14
Technical corrections, clarifications, and conforming changes	83§§30-31
Regional offices requirement repealed.....	83§14
Enforcement of motor carrier laws	78§10
Exempt positions	83§7
Juvenile detention home inspection.....	172§2

Public Safety, Department of—continued

Juvenile facilities standards local compliance.....	172§4
Management flexibility reductions.....	142§14.3A
Office of External Affairs	
Evidence warehouse transfer and expanded duties.....	83§§62-65
Official license plates shifted to Governor's office	83§4
Rewrite/recodification of Emergency Management Act	12
Secretary	
Appointment of chief deputy secretary	
Div. of Adult Correction.....	83§11
Div. of Juvenile Justice.....	83§12
Duties related to probation officers.....	83§2
Legislative liaisons.....	83§6
Probation officer position classifications	83§2
Salary.....	142§25.02(a)-(b)
State agency teachers' compensation.....	142§25.7E
Technical corrections, clarifications, and conforming changes.....	83§58; 194 §§7, 21(a)-(b), 23, 39
Vacant position reclassification.....	142§14.2A(a)-(b)
VIPER system.....	142§6.3(a)-(d)
Youth Development Centers	
Edgecombe Center uses study.....	142§14.9
Strategic plan.....	142§14.8

Public Transportation

Highway Trust Fund use for fixed guideway projects.....	142§24.19(b)
LYNX Blue Line Extension/Northeast	
Corridor project funds	142§24.19(a)
Regional New Starts & Capital	
Program eliminated	142§24.19(a)

Purchasing—see Contracts and Purchasing**R**

Racial Justice Act	136§§3-8
Racing —see Sports	
Railroads —NC Railroad study	142§24.20; 194§71.5(a)-(b)
Raleigh, City of	
Casa Esperanza Montessori School added to State Health Plan.....	192§1
Governor Morehead School for the Blind—see Public Instruction, Department of	
Limit access to minors' information	139§1(a)-(b)
North Carolina State University— see University of North Carolina	

Randolph County

Asheboro, City of—see that heading

Rate Bureau

Employer information provided to Industrial Commission..... 135§1(a)-(b)
 Fairness/efficiency of property insurance
 geographic rate territories study 162§6
 Property insurance rate making process 162

Real Estate—see Property

Real Estate Commission—broker price opinions 163§§2-5;
 194§61

Recordation of Instruments—see Register of Deeds**Records**

Archives and Records Management Fund created 79§2.19(a)-(b)
 Competitive health care information
 held by LME not public record 151§10
 Confidentiality—see Privacy
 Criminal
 Checks
 Child care provider 160
 Juvenile Justice Division
 Independent contractor/volunteer 83§5
 Transporters of household goods 9
 Div. of Adult Correction offender
 records management duties 83§8
 Division of Criminal Information Network 182§1
 Expunction 191
 Evidence warehouse transfer and
 expanded duties 83§§62-65
 Financial statements for publicly funded
 nonprofits 169
 Limit access to minors' information in
 local government programs in certain
 cities 139§1(a)-(b);
 194§70.5(a)
 Local agency charges for vital records
 searches 18§§2.1-2.2
 Medical
 Employer access to employee
 information 135§2
 Privacy—see that heading
 Regulation of sales and purchases of metals 46§28
 Road maintenance/construction bids
 not public record 78§11
 Student data disclosure by nonpublic schools 133§2
 Tax related retirement member
 information not part of FRD access 178§1
 Unclaimed property records retention 187§9
 Vital Records Computer Network fee repealed 18§2.2; 194§54

Recreation and Leisure —limit access to minors' information in local government programs in certain cities	139§1(a)-(b); 194§70.5(b)
Recycling —see Environment	
Red Springs, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Redistricting (see also Elections)	
Carteret County Commissioners	
redistricting allowed	58
Pender County commissioner districts	51
Regional Economic Development	
Commissions	
AdvantageWest North Carolina—see Western North Carolina Regional Economic Development Commission	
Carolinas Partnership, Inc.—see that heading	
Eastern Region Development Commission—see that heading	
Funding and alignment study	142§13.14A
Northeast Commission, North Carolina's—see that heading	
Northeastern North Carolina Regional Economic Development Commission—see Northeast Commission, North Carolina's	
Piedmont Triad Regional Partnership—see that heading	
Research Triangle Regional Partnership—see that heading	
Southeastern North Carolina Regional Economic Development Commission—see that heading	
Western North Carolina Regional Economic Development Commission—see that heading	
Register of Deeds	
Iredell County satellite office	22
No recordation of deeds for delinquent taxpayer in certain counties	22§3; 114
Obsolete provisions eliminated	18§§1.1-1.24
Portion of fees remitted to Archives and Records Management Fund	79§2.19(a)-(b)
Subsequent instrument recordation fee clarification	79§2.16
Vital Records Computer Network fee repealed.....	18§2.2; 194§54
Registrar, State —local agency charges for vital records searches	18§§2.1-2.2
Remote Learning —see Education	

Rental Property—see Housing**Reports** (see also Studies)

Administration, Department of Committal structure project, Sandhills Cemetery	164§9
Administrative Office of the Courts (AOC)	
Family court programs oversight	142§16.2
Magistrate schedule management study.....	142§16.1
Agriculture and Consumer Services, Department of	
Fisheries management agencies organization study	190§2(c)
Southeastern NC Agricultural Center and Farmers Market study	142§11.3(b)
Wildfires report	142§11.2
All State agencies	
Auditing/examination functions and notice requirements	187§10.1(a)
Business licenses issued	187§10.3
Identity theft measures	187§10.2
Appraisal Board	
Appraisal management company report to Revenue Dept.	65
Budget and Management, Office of State	
Enterprise grants management system	142§6A.10
Overrealized receipts report repealed.....	142§5.1
Repairs and Renovations Reserve Account	
Allocations	142§§26.4(a), 26.11
Transfer for Medicaid	57§1(c)
Capital project reporting	142§26.5(a)-(c)
Coastal Resources Commission	
Area of Environmental Concern study.....	202§4
Erosion control structures.....	201§2(a)-(b)
Inlet Hazard Area of Environmental Concern elimination study	202§5
Commerce, Department of	
Align One North Carolina Fund with JDIG Program	142§13.6(h)
Alternative fueled vehicles purchase and infrastructure task force.....	186§1(c)
Clawbacks	142§13.4(b)
Development tier designation	142§13.4(e)
Economic Development Grant reporting	142§13.4(d)
Industrial Development Fund reports repealed	142§13.4(c)
Workforce development common follow-up management system	131§4(a)-(b)
Community Colleges, State Board of	
Lateral entry teachers program report repealed	142§8.3(d)
Redundant/obsolete reports repealed	142§9.4(a)
Community Colleges System Office	
ESC training and employment account funds report repealed.....	142§8.3(c)

Reports—continued

General obligation bonds report repealed	142§8.3(b)
Multicampus and off campus center report repealed.....	142§8.3(a)
Conference of District Attorneys Sale of minors study	153§5
Cultural Resources, Department of Five-year plan for certain historic sites	142§18.3
Historic sites and museums savings and revenue enhancements study.....	93§1
Dropout Prevention, Committee on Grants report repealed	142§7.13(e)
Durham Technical Community College Gateway to college pilot.....	142§8.7(c)
Economic Development Board Comprehensive Strategic Development Plan.....	142§13.4(a)
Education, Boards of (local) Needs of students with family in the military repealed	194§55(a)-(c)
Education, State Board of CPR instruction and graduation requirement for high school	197§2
Graduation requirements for students not continuing beyond high school study	77§6
Lateral entry teachers program report repealed	142§8.3(d)
Learn and Earn high school workforce development evaluation repealed.....	142§7.13(a)
More at Four program report repealed.....	142§7.13(d)
Needs of students with family in the military repealed	194§55(a)-(c)
Prekindergarten/early education programs reports repealed.....	142§7.13(d)
Professional development evaluation repealed	142§7.13(f)
Redundant/obsolete reports repealed	142§9.4(a)
School calendar pilot program for certain counties	142§7.4
Small, restructured high school program report repealed.....	142§7.13(b)
Statewide education "Race to the Top" initiatives.....	77§7(b)
Elections, State Board of Election system maintenance contracts.....	142§23.3(a)
Voter-Owned Elections Act supplemental report.....	142§23.5
Employment Security Commission Training and employment account funds report repealed.....	142§8.3(c)
Environment and Natural Resources, Department of (DENR) Air Toxics Program rules change.....	91§4

Reports—continued

Coastal fishing license and vessel titling fees study	190§1(c)
Coastal Habitat Protection Plan	201§6
Degradable plastic products study	200§3(a)-(b)
Environmental permit processing times tracking and report.....	187§13(a)-(b)
Fisheries management agencies organization study	190§2(c)
Hazardous waste capture rate	200§21(b)
Hazardous Waste Management Account	200§21(a)
Inactive hazardous waste sites	200§§21(e), 22
Kerr Lake water supply reallocation study	200§2(b)
Lead-based paint hazard management program.....	200§4(a)-(b)
Leaking Petroleum Underground Storage Tank Cleanup Program	200§23
Mercury switch removal program	200§21(a), (f)
New River cleanup	200§24
Recycling materials in DOT contracts	200§25
Regional office centralized oversight.....	142§12.2(b)
Resident inspection program repealed	200§21(d)
Sanitary landfill fee schedule review	187§15.1
Solid waste management Loans.....	200§26
Program.....	200§21(a)-(f)
State of the environment	200§27
Water resources development projects funds.....	142§26.2(d)
Zoos, parks, and aquariums savings and revenue enhancements study.....	93§2
Environmental Management Commission Stormwater capture and reuse	200§1
Fiscal Research Division Medicaid organization study	142§10.9B(a)
Public employee compensation plan review	142§25.2D
School nurse utilization review extended	142§6.2
UNC tuition surcharge study.....	142§9.8
Health and Human Services, Department of (DHHS) ADAP enrollment in Inclusive Health North Carolina.....	142§10.16(b)
Community-based health and wellness initiatives	142§10.14(b)
Community health grant funding	142§10.13(b)
Electronic supervision device use pilot program extension.....	15§2
Lapsed salary funds.....	142§10.20
Medicaid Electronic prior authorization for prescriptions study	142§10.8A
Nonemergency medical transportation RFP	142§10.7(c)

Reports—continued

Outpatient imaging services	142§10.9D(b)
Personal care services/ADL eligibility	142§10.9F(e)
Pharmacy services.....	142§10.8
Program disclosures	142§6.12
Smart card pilot program	142§10.9(j)
NC Pre-K annual report.....	142§10.1(g)
Read NC pilot program	142§10.4(c)
Reduction of acute care admissions and crises services by LMEs study	128§2
Repairs and Renovations Reserve Account transfer for Medicaid	57§1(c)
Special care/memory care units home/ community-based Medicaid services program	142§10.9E(c)
Transitions to community living initiative	142§10.23A(g)
Health and Human Services, Joint Legislative Oversight Committee on Mental health services delivery study	142§10.11(b)
Indigent Defense Services, Office of Existing office expansion funds	142§16.8
State match for grants.....	142§16.9
Insurance, Department of State Fire Protection Grant Fund study	142§20.1(b)
Volunteer Safety Workers Compensation Fund assessment	142§20.4(a)
IT contractors/personnel contracts reporting	142§6A.4
Justice, Department of Western Regional Laboratory plan	142§15.4
Legislative Research Commission Licensure by Medical Board of military trained personnel and by endorsement of spouses study	196§3
Regional Economic Development Commissions funding and alignment study	142§13.15
Longitudinal Data System Board Reporting requirements	133§1(d)
Mining and Energy Commission Compulsory pooling study	143§2(l); 201§12(c)
Oil and gas exploration Identification of regulation costs	143§2(j); 201§12(a)
Local government regulation study	143§2(k); 201§12(b)
Regulation rules	143§2(m)
Reporting requirements	143§1(b), (h)
NC Forest Service B.R.I.D.G.E. Youthful Offenders Program.....	142§11.1(b)
New Schools Project Investing in Innovation grant	142§7.17(c)

Reports—continued

NonState entities reports to Health and Human Services, Department of (DHHS)	142§10.19(a)-(b)
Program Evaluation Division	
Div. of Public Health duties transfer to UNC study	126§5
Human Relations Commission and OAH Civil Rights Div. duties and services study	142§19.1
Medicaid organization study	142§10.9B(a)
NC Railroad study	194§71.5(b)
Public employee compensation plan review	142§25.2D
State-owned land and submerged land study	194§71.5(d)
Public Safety, Department of	
Edgecombe Youth Development Center uses study	142§14.9
Inmate medical costs	142§14.2(b)
Technical revocation center study	142§14.3
Vacant position reclassification	142§14.2A(b)
VIPER system	142§6.3(d)
Youth Development Centers strategic plan	142§14.8
Rate Bureau	
Fairness/efficiency of property insurance geographic rate territories study	162§6
Revenue, Department of	
Combined motor vehicle registration and property tax collection system	142§24.10(c)
Tax Information Management System public-private partnership	142§6A.3(h)
Revenue Laws Study Committee	
Local sales tax option for beach nourishment study	189§1
Taxation and valuation of leasehold interests in exempt property study	189§2
Roanoke Island Commission	
Five-year plan for certain historic sites	142§18.3
Quarterly report	142§18.1
Sentencing and Policy Advisory Commission	
Compliance with <i>Miller v. Alabama</i> (life sentences for minors) study	148§2
Small Business Contractor Authority	
Requirement change	142§13.3
State Auditor, Department of	
DHHS Div. of Medical Assistance audit	142§10.9A(b); 145§3.3
State Chief Information Officer	
IT services privatization	142§6A.6(a)
Monthly reports required	142§6A.5(e)
State portal implementation and operation	142§6A.12(b)-(d)

Reports—continued

State private cloud plan	142§6A.9(e)
State Controller, Office of	
Enterprise-level business intelligence initiative	142§6A.7A(e)
Transitions to Community Living, Blue Ribbon Commission on	
Study	142§10.23A(h)
Transportation, Department of	
Coastal fishing license and vessel titling fees study	190§1(c)
Combined motor vehicle registration and property tax collection system	142§24.10(c)
Electric vehicle charging stations at rest stops	186§2(d)
I-95 tolling study	142§24.21(b)
UNC Board of Governors	
Acquisition and disposition of real property	142§9.10(c)
Graduates in primary care date change	142§9.5
Redundant/obsolete reports repealed	142§9.4(a)-(g)
Repairs and Renovations Reserve Account allocations	142§26.4(a)-(c)
Wildlife Resources Commission	
Coastal fishing license and vessel titling fees study	190§1(c)
Fisheries management agencies organization study	190§2(c)
Workers' Compensation Insurance	
Coverage Compliance and Fraud Prevention and Detection, Joint Legislative Committee on Study	135§8(g)
Workforce Development, Commission on	
Reporting changes	131§1(a), (c)
Workforce Development System Reform	
Oversight Committee, Joint Legislative Interim and final reports	131§7(e)
Rescue Squads —see Emergency Services	
Research Triangle Regional Partnership —allocation	142§13.12; 145§4.8
Residential Treatment Facilities —see Hospitals and Clinics	
Respiratory Care Board —appointments and membership	141§§1.36, 2.25
Retirement	
Consolidated Judicial Retirement System (CJRS)	
Cost-of-living increases	142§25.13(b)
Deductions for payment	178§4(d)
Forfeiture of benefits for certain felonies	193§§5-6
"Government plan" clarification	130§7(d)

Retirement—continued

IRS conforming change.....	130§4(d)
Disability Income Plan	178§5
Fire and Rescue Squad Workers	
Current operations	142§2.1
Forfeiture of benefits for certain felonies	193
Legislative Retirement System (LRS)	
Cost-of-living increases.....	142§25.13(c)
Deductions for payment	178§4(a)
Forfeiture of benefits for certain felonies.....	193§§7-8
"Government plan" clarification	130§7(a)
IRS conforming change.....	130§4(a)
Survivor's alternate benefit.....	130§5
Local Government Employees	
Retirement System (LGERS)	
Actuarial assumptions requirements	130§2(a)
Creditable service	130§3(a)
Deductions for payment	178§4(b)
Firefighter/rescue squad worker	
disability retirement service	
requirement removed	82
Forfeiture of benefits for certain felonies.....	193§§3-4
Fraud investigations	185§2(a)-(d)
"Government plan" clarification	130§7(b)
IRS conforming change.....	130§4(b)
Medical Board appointments	185§4(a)
Opt out period.....	130§1
Pension Accumulation Fund accrued liability	178§3
Post-retirement increases.....	178§2
Trustee voting quorum	130§9(a)
Whistleblower protections	185§1
New Bern Firemen's Supplemental	
Retirement Fund repealed.....	123§2(a)-(b)
Optional Retirement Program for	
Community Colleges	
Forfeiture of benefits for certain felonies.....	193§12
Optional Retirement Program for UNC	
Forfeiture of benefits for certain felonies.....	193§11
Optional retirement system	
Expansion	142§25.12
Forfeiture funds	142§25.11
Retiree Health Benefit Fund	
Investment	178§6
Retirement income COLA disregard for Medicaid	142§10.6(a)-(c)
Supplemental Retirement Plans for Law	
Enforcement	
Forfeiture of benefits for certain felonies.....	193§§13-16
Teachers' and State Employees' Retirement System (TSERS)	

Retirement—continued

Actuarial assumptions requirements	130§2(b)
Archaic laws repealed	130§8
Cost-of-living increases.....	142§25.13(a)
Creditable service.....	130§3(b)-(c)
Deductions for payment	178§4(c)
Forfeiture of benefits for certain felonies	193§§1-2
Fraud investigations	185§2(a)-(d)
"Government plan" clarification	130§7(c)
Improper receipt of decedent's benefits	185§3(a)-(b)
IRS conforming change.....	130§4(c)
Medical Board appointments	185§4(b)
Teacher definition clarification	130§6
Trustee voting quorum	130§9(b)
Winston-Salem Firemen's Retirement Fund	
Heroes Earnings Assistance and Relief Tax Act compliance	123§1(a)-(b)
Salary deduction.....	123§1(a)-(b)
Revenue, Department of	
Appropriations-current operations.....	142§2.1
Attorney position for tax fraud prosecution	142§22A.1
Combined motor vehicle registration and property tax collection system.....	142§24.10(a)-(c)
Contingency contracts for audits/ assessments prohibited	152§1
Longitudinal data system data sharing exception.....	133§1(b)
Oversight Committee.....	142§6A.3(g), (j)
Penalties change TIMS workaround.....	79§2.18(a)-(b)
Reports—see that heading	
Rules for combined returns and adjusted net income by Secretary of Revenue	43
Secretary's salary	142§25.02(a)-(b)
Tax Information Management System public-private partnership.....	142§6A.3(a)-(k)
Revenue Laws Study Committee	
Local sales tax option for beach nourishment study	189§1
Taxation and valuation of leasehold interests in exempt property study.....	189§2
Richmond County —investing in	
Innovation grant.....	142§7.17(a)-(c)

Roads and Highways

Delegation of Transportation Boards's highway construction authority to Secretary.....	84§1
Electric vehicle charging stations at rest stops	186§2(a)-(d)
Marion annexation	97
Move Over Law for highway maintenance vehicles.....	14
Pre-construction activities privatization for transportation projects.....	142§24.2
Recycled asphalt use.....	8
Relocation of municipal utilities by DOT	145§6.1
Road maintenance/construction bids not public record.....	78§11
Rural Planning Organization area definition	44
Self-propelled agricultural equipment on interstates authorization process.....	78§5
Strategic prioritization process for highway projects.....	84§2
Technical corrections, clarifications, and conforming changes.....	194§10
Toll roads and bridges—see that heading	
Unpaved roads prioritization	142§24.15
Weight limits	
Clarification.....	78§4
Exceptions for transporting certain products	78§6
Firefighting equipment exemptions	78§7
Unhardened ready mixed concrete.....	78§13
Yadkin River Veterans Memorial Bridge named.....	42
Roanoke Island Commission	
Appointments and membership	141§§1.37, 2.34
Appropriations-current operations.....	142§2.1
Audit	87
Five-year plan for certain historic sites	142§18.3
Friends of Elizabeth II, Inc. audit.....	87
Reports—see that heading	
Roanoke Rapids, City of—deannexation.....	116§1(a)-(c)
Roanoke River Basin Advisory Committee—membership technical/ conforming change.....	200§28(a)-(b)
Roanoke River Basin Bi-State Commission—membership technical/ conforming change.....	200§28(a)-(b)
Robersonville, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Robeson County	
Lumberton, City of—see that heading	
Red Springs, Town of—see that heading	

Rockingham County	
Design-build authorized for county buildings	140
Mayodan, Town of—see that heading	
Rocky Mount, City of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Repeal of involuntary annexation	3§§1-2, 4
Rolesville, Town of—limit access to	
minors' information	139§1(a)-(b)
Rowan County—Yadkin River Veterans	
Memorial Bridge named	42
Rules Review Commission—appointments	
and membership	141§1.38
Rural Economic Development Center	
Appropriations	
Additional allocation	145§4.9
Administration.....	142§13.13A; 145§4.9
Agricultural Advancement	
Consortium.....	142§13.13A; 145§4.9
Community development grants	142§13.13A; 145§4.9
Current operations	142§2.1; 145§1.1
Industrialization Center	142§13.14A
Infrastructure Program	142§13.14;145§4.9
Institute for Rural Entrepreneurship.....	142§13.13A; 145§4.9
Microenterprise loan program.....	142§13.13A; 145§4.9
Research and demonstration grants.....	142§13.13A;145§4.9
Statewide water/sewer database	142§13.13A; 145§4.9
Water/sewer/business development	
matching grants	142§13.13A; 145§4.9
Rural Jobs Infrastructure Grants	142§13.13; 145§4.9
Rutherford County	
Investing in Innovation grant.....	142§7.17(a)-(c)
Lake Lure, Town of—see that heading	

S

Safety (see also Public Health)	
Wading pool fence compliance effective date.....	187§14(a)-(b)
Window tinting restrictions	78§8
Safety Equipment	
AEDs in State buildings.....	198
Smoke/carbon monoxide alarm damage	
security deposit deduction	92§3
Technical corrections, clarifications,	
and conforming changes.....	194§50
Ten-year lithium battery smoke alarm	
requirement for rental housing	92

Salaries and Benefits

ABC Commission Chair	142§25.1(a)
Adjustments for special circumstances.....	142§25.2
Agricultural Finance Authority	142§25.1(a)
Agriculture Commissioner.....	142§25.01(c)-(d)
Attorney General	142§25.01(c)-(d)
Availability of appropriations contract clause.....	142§6.13(a)-(c)
Banking Commission.....	142§25.2
Board of Review	
Chair	142§25.1(a)
Member	142§25.1(a)
Central office salaries	142§25.7C(a)-(g)
Commerce Dept. travel expenses	142§13.2
Commissioner of Banks.....	142§25.1(a)
Commissioner of Motor Vehicles.....	142§25.1(a), (b), (f)
Community colleges	142§25.1C(a)-(b)
Compensation adjustment and performance pay reserve.....	142§25.2A
Comprehensive compensation system repealed	142§25.2C(a)-(d)
Consolidated Judicial Retirement System (CJRS)—see Retirement	
Council of State	142§25.01(a)-(d)
DHHS lapsed salary funds reports.....	142§10.20
Executive branch	142§25.1(a)-(g)
Exempt positions	142§25.2E(a)-(b)
General Assembly.....	142§25.1B(a)-(d)
Insurance Commissioner	142§25.01(c)-(d)
Judicial branch	142§25.1A(a)-(h)
Labor Commissioner	142§25.01(c)-(d)
Legislative Retirement System (LRS)—see Retirement	
Lieutenant Governor.....	142§25.01(c)-(d)
LME board salary setting authority	151§11(a)-(c)
Local Government Employees	
Retirement System (LGERS)—see Retirement	
Lottery Commission	142§25.2
Monitor salary increases	142§25.2B
Museum of Art Director	142§25.1(a), (d), (f)
Noncertified school personnel	142§25.7D(a)-(d)
Nonelected department heads	142§25.02(a)-(d)
Partnership for Children	142§10.3(a)-(b)
Post-Release Supervision and Parole Commission	142§25.1(a)
Proprietary Schools Board powers and duties	142§8.9A(c)
Public employee compensation plan review	142§25.2D
Salary related contributions	142§25.10
School-based administrators salary schedule	13§4(a)-(b); 142§25.7(a)-(b)
School employee dues checkoff eliminated	1
Secretary of Administration.....	142§25.02(a)-(b)

Salaries and Benefits—continued

Secretary of Commerce	142§25.02(a)-(b)
Secretary of Cultural Resources	142§25.02(a)-(b)
Secretary of Environment and Natural Resources.....	142§25.02(a)-(b)
Secretary of Health and Human Services	142§25.02(a)-(b)
Secretary of Public Safety	142§25.02(a)-(b)
Secretary of Revenue	142§25.02(a)-(b)
Secretary of State	142§25.01(c)-(d)
Secretary of Transportation	142§25.02(a)-(b)
Special annual leave bonus.....	145§6B.1
State agency teachers' compensation.....	142§25.7E
State Auditor.....	142§25.01(c)-(d)
State Chief Information Officer.....	142§25.1(a), (e), (f)
State Controller.....	142§25.1(a)
State employees	142§25.1E(a)-(d)
State Personnel Director	142§25.1(a), (c), (f)
State supported personnel salaries	142§25.1F(a)-(f)
State Treasurer	142§25.01(c)-(d)
Superintendent of Public Instructions's salary.....	142§25.01(c)-(d)
Teacher assistant leave	142§7.14(a)-(c)
Teachers	
Pay for excellence	142§7A.10(a)-(b)
Prepayment prohibition repealed	13§1
Salary schedules	13§3(a)-(b); 142§25.6(a)-(b)
Teachers' and State Employees' Retirement System (TSERS)—see Retirement	
UNC system.....	142§25.1D(a)-(c)
Utilities Commission	142§25.1(a)
Sales and Conveyances (see also Leasing and Rentals; Property)	
AMHC property to ECBH.....	113
Cleveland County correctional facility transfer to Cleveland CC	177§§1-3
Haywood Correctional Center transfer to County	177§§3.1-3.3
Sale/lease authorized for Lake Lure	115
Western NC Agricultural Center property conveyed to State	121§2.2(a)-(b)
Sampson County	
Investing in Innovation grant.....	142§7.17(a)-(c)
No recordation of deeds for delinquent taxpayer	22§3
No special use/building permits for delinquent taxpayer	22§§1-2
Sanitary Landfills —see Waste Management	
SBI (State Bureau of Investigation) — see Law Enforcement	
Scholarships and Financial Aid —see Tuition	

School Buses —see Education	
School Violence Prevention Act	149
Scotland County	
Laurinburg, City of—see that heading	
Scotland Neck, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Scrap Yards and Dealers (see also Precious Metals)	
Forfeiture of vehicle used to transport illegally obtained metals.....	46§29
Injuring property to obtain metals	46§31
Purchase of vehicles for scrap and parts	46§30
Recodification.....	46§§1, 26-27
Regulation of sales and purchases of metals.....	46§28
Technical corrections, clarifications, and conforming changes.....	194§46(a)-(b)
Secondary Education —see Education	
Secretary of State, Department of	
Appropriations-current operations.....	142§2.1
Charitable Licensing Division fees treatment	142§21.1
Salary	142§25.01(c)-(d)
Selma, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Sentencing (see also Parole and Probation)	
Capital punishment—see that heading	
Community service supervision fee	188§3
Compliance with Miller v. Alabama (life sentences for minors).....	148
Continuous alcohol monitoring systems for pretrial release, probation, and mitigated punishments.....	146§§1-9
Forfeiture of retirement benefits for certain felonies.....	193§§9-10
Graduated scale of penalties for DWI	165§§2-3
Habitual misdemeanor larceny	154
New penalty level for certain 2nd degree murder	165§1
Parole and probation—see that heading	
Post-release supervision in drug cases.....	188§§5-6
Sentencing and Policy Advisory Commission —compliance with Miller v. Alabama (life sentences for minors) study	148§2

Sex Offenses (see also Crimes)	
No funeral service license for those convicted of sex offense	194§71
Secret peeping exclusion for Juvenile Justice personnel.....	83§1
Technical corrections, clarifications, and conforming changes.....	194§4(a)-(b)
Termination of parental rights to include offense resulting in conception.....	40
Shelby, City of —official fall livermush festival.....	29
Sheriffs —see Law Enforcement	
Sheriffs' Education and Training	
Standards Commission	
Appointments and membership	141§1.39
Expunction of nonviolent felonies.....	191
Small Business Contractor Authority	
Reports—see that heading	
Smithfield, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Smoke Alarms —see Safety Equipment	
Social Services, Departments of (County)	
Child care subsidy rate provision	142§10.2
Child protective services block grant	142§10.25(a), (p)
Child welfare training	142§10.25(a), (m)
Disclosure of information to certain authorities	153§6
Equalize in-home, adult care home, and rental assistance payments.....	142§10.23(a)-(h)
Home and community care block grant.....	142§10.25(a)
State-county special assistance	142§10.23(a)-(h)
TANF funded programs.....	142§10.25(g)-(k)
Social Workers	
Associate title changes for Medicaid/Medicare purposes	72§§2-4
Mandatory Medicaid mental health services for children provider	72§8
Soil and Water Conservation Commission	
Agriculture cost share program and agriculture water resources assistance funds.....	142§11.2A(a)-(b)
Conservation Reserve Enhancement Program	145§4.3
Southeastern North Carolina Regional	
Economic Development Commission —allocation	142§§13.12; 145§4.8
Southport, City of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Repeal of involuntary annexation.....	3§§1-2, 4

- Speaker (North Carolina House of Representatives)**—see General Assembly
- Special Economic Zones**—see Industrial Location
- Sports**
- Begin school year early in Moore
 - County to accommodate US Open 27§2
 - Motorsports aviation fuel tax refund extended..... 36§11(a)
 - School bus use for US Open in Moore County 27§1
 - St. Helena, Village of**—ABC revenue distribution 125§3
 - Stallings, Town of**—annexation 110§1
 - Stanly County**—school calendar pilot program 142§7.4
 - State Art Society, Inc.**—repealed..... 120§1(a)-(e)
 - State Auditor, Department of**
 - Appropriations-current operations..... 142§2.1
 - Cost of audits published..... 142§§17.3-17.4
 - DHHS Div. of Medical Assistance audit..... 142§10.9A(a)-(c);
..... 145§3.3
 - Duplicate community college audit
requirement repealed 142§8.4
 - Friends of Elizabeth II, Inc. audit 87
 - Occupational licensing boards exempt
from paying for audits 142§17.1
 - Roanoke Island Commission audit..... 87
 - Salary 142§25.01(c)-(d)
 - Special responsibility constituent institution audits 142§17.2
 - State Banking Commission**—see Banking Commission, State
 - State Bar, North Carolina**
 - Disciplinary Hearing Commission—see that heading
 - State Board of Community Colleges**—
see Community Colleges, State Board of
 - State Board of Dental Examiners**—see Dental Examiners, State Board of
 - State Board of Education**—see Education, State Board of
 - State Board of Proprietary Schools**—see Proprietary Schools, State Board of
 - State Building Commission**—see Building Commission, State
 - State Buildings**—see Buildings
 - State Bureau of Investigation (SBI)**—see Law Enforcement
 - State Chief Information Officer** (see also
Information Technology Services, Office of)
 - Consultation prior to eliminating
services or transferring positions..... 142§6A.5(b)
 - Internal service fund rate establishment/cash management 142§6A.5(a)-(e)
 - Reports—see that heading
 - Salary 142§25.1(a), (e), (f)
 - State portal implementation and operation..... 142§6A.12(a)-(j)
 - State private cloud
 - Generally 142§6A.9(a)-(f)
 - Plan..... 142§6A.9(b)
 - Statewide Portal Committee—see that heading

State Commission of Indian Affairs—

see Indian Affairs, State Commission of

State Controller, Office of

Appropriations

Current operations 142§2.1

Enterprise-level business intelligence initiative 142§6A.7A(d)

Charges from IT Internal Service Fund 142§6A.5(c)

Enterprise-level business intelligence initiative 142§6A.7A(a)-(h)

Medicaid funding 2§1(a)-(c)

Salary 142§25.1(a)

Wildlife Resources Commission budget code 142§12.6

State Council for Interstate Juvenile**Supervision—**see Interstate Juvenile

Supervision, State Council for

State Education Assistance Authority—

see Education Assistance Authority, State

State Employees

Alcohol Law Enforcement Section

Director's authority to shift personnel 83§3

Appointment of chief deputy secretary

to head Div. of Adult Correction 83§11

Appointment of chief deputy secretary

to head Div. of Juvenile Justice 83§12

Attorney position for tax fraud prosecution 142§22A.1

Building code review positions for State buildings 142§20.3

Combined motor vehicle registration

and property tax collection system positions 142§24.10(a)-(c)

Consolidated Judicial Retirement

System (CJRS)—see Retirement

Exempt positions 142§25.2E(a)-(b)

Exempt positions in Public Safety Dept. 83§7

Indigent Defense Services existing

office expansion funds 142§16.8

IT contractors/personnel contracts reporting 142§6A.4

Lead-based paint hazard management program staff 200§4(a)

Legislative Retirement System (LRS)

—see Retirement

Mining and Energy Commission staff

positions 142§12.1

No elimination of crime lab positions 142§15.5

No residential school personnel transfers to DPI 142§7.8(b)

Personnel appeals 187§§8.2-8.7

Position allotments for schools 142§7.18(a)-(b);

145§2.4(a)-(b)

Position transfer for Wine and Grape

Growers Council 145§4.5

Probation officer position classifications 83§2

Public Safety vacant position reclassification 142§14.2A(a)-(b)

State Employees —continued	
Reclassify vacant Budget and Management positions.....	142§22.2
Retirement—see that heading	
Salaries and benefits—see that heading	
State Highway Administrator name change to Chief Engineer	85§§4-8
Teachers' and State Employees' Retirement System (TSERS)—see Retirement	
Technical corrections, clarifications, and conforming changes.....	83§42
Youth Development Centers staffing treatment model repealed	142§14.5
State Ethics Commission —see Ethics Commission, State	
State Health Plan for Teachers and State Employees —see Insurance	
State Health Plan for Teachers and State Employees, Board of Trustees	
Appointments and membership	
Technical corrections, clarifications, and conforming changes	194§38
Technical corrections, clarifications, and conforming changes.....	194§30
State Judicial Council —see State Judicial Council	
State Lottery Commission —see Lottery Commission, State	
State Personnel Commission —comprehensive compensation system repealed	142§25.2C(a)-(d)
State Personnel, Office of	
Appeals	187§§8.2-8.7
Availability of appropriations contract clause	142§6.13(a)-(c)
Director's salary	142§25.1(a), (c), (f)
Monitor salary increases	142§25.2B
Probation officer position classifications	83§2
Technical corrections, clarifications, and conforming changes.....	194§25
State Ports Authority —see Ports Authority, State	
State Registrar —see Registrar, State	
State Symbols	
Butterfly	29
Mullet festival	29
Spring and fall livermush festivals	29

State Treasurer, Department of

Appropriations	
Current operations	142§2.1
Plant conservation program transfer	142§26.9
Contingency contracts for audits/ assessments prohibited	152§§3-3.1; 194§61.5(a)-(b)
Retirement Systems Division	
Fraud investigations	185§2(a)-(d)
Notification by US attorneys to trigger forfeiture of retirement benefits	193§17
Tax related member information not part of FRD access	178§1
Whistleblower protections	185§1
Salary	142§25.01(c)-(d)
State Health Plan rates/percentages setting authority	173§4(a)-(b)
Technical corrections, clarifications, and conforming changes.....	130§10; 194§30
Statewide Portal Committee —created	142§6A.12(h)
Stem, Town of	
ABC profits distribution	49
Delinquent stormwater utility fee collection	55§2
Stokes County —payment of delinquent property taxes before recording of deeds.....	114
Stoval, Town of —ABC profits distribution.....	49
Street Gang Nuisance Abatement Act	28
Student Discipline (see also Education)	
"Basis of knowledge" about a child with disability sunset removed	77§5
Cyberbullying	149§§3, 9
Technical corrections, clarifications, and conforming changes.....	194§48
Studies (see also Reports)	
Alternative fuels.....	186§1(a)-(c)
Area of Environmental Concern.....	202§4
Coastal fishing license and vessel titling fees	190§1(a)-(c)
Compliance with Miller v. Alabama (life sentences for minors).....	148§2
Compulsory pooling	143§2(l)
Degradable plastic products.....	200§3(a)-(b)
Div. of Public Health duties transfer to UNC.....	126§5
Edgecombe Youth Development Center uses study.....	142§14.9
Electronic supervision device use pilot program extension.....	15§2
Fairness/efficiency of property insurance geographic rate territories study.....	162§6

Studies—continued

Fisheries management agencies organization.....	190§2(a)-(c)
Graduation requirements for students not continuing beyond high school	77§6
Historic sites and museums savings and revenue enhancements	93§1
Human Relations Commission and OAH Civil Rights Div. duties and services	142§19.1
Human trafficking.....	142§15.3A(c)
I-95 tolling	142§24.21(a)-(c)
Kerr Lake water supply reallocation	200§2(a)-(b)
Lead-based paint hazard management program analysis	200§4(b)
Licensure by Medical Board of military trained personnel and by endorsement of spouses	196§3
Local government regulation of oil and gas exploration.....	143§2(k)
Local sales tax option for beach nourishment	189§1
Magistrate schedule management.....	142§16.1
Medicaid electronic prior authorization for prescriptions	142§10.8A
Medicaid organization	142§10.9B(a)-(b)
Mental health services delivery	142§10.11(a)-(b); 145§3.4
NC Railroad study	142§24.20; 194§71.5(a)-(b)
One North Carolina Fund funding.....	142§13.6(d)
Program Evaluation Division studies impact statement.....	80
Public employee compensation plan review	142§25.2D
Reduction of acute care admissions and crises services by LMEs	128§2
Regional Economic Development Commissions funding and alignment	142§13.15
Regulation of oil and gas exploration identification of costs	143§2(j)
Sale of minors	153§5
Sanitary landfill fee schedule review.....	187§15.1
School nurse utilization review extended.....	142§6.2
Southeastern NC Agricultural Center and Farmers Market	142§11.3(a)-(b)
State Fire Protection Grant Fund study	142§20.1(a)-(b)
State-owned land and submerged land	194§71.5(c)-(d)
State Railroad study outside consultant authorization for PED repealed	194§71.5(b)
Taxation and valuation of leasehold interests in exempt property	189§2
Technical revocation center.....	142§14.3
Transitions to community living initiative	142§10.23A(a)-(j)
UNC tuition surcharge	142§9.8
Volunteer Safety Workers Compensation Fund assessment.....	142§20.4(a)-(b)

Studies—continued

Workers' compensation insurance coverage compliance and fraud prevention and detection.....	135§8(b)
Zoos, parks, and aquariums savings and revenue enhancements.....	93§2

Substance Abuse

Charitable residential treatment facility licensure exemption.....	15§1
Clinical addiction specialist title changes for Medicaid/Medicare purposes.....	72§§5-7
Div. of Adult Correction alcoholism and chemical dependency treatment program.....	83§§9-10
Div. of Adult Correction substance abuse treatment duties	83§8
Juvenile delinquency and substance abuse prevention plan	83§13
LMEs (Local Management Entities)—see that heading	
Mandatory Medicaid mental health services for children provider.....	72§8
Substance abuse prevention and treatment block grant.....	142§10.25(a)

Supplemental Retirement Board of

Trustees —appointments and membership.....	141§§1.41, 2.38
---	--------------------

Surety and Fidelity

Bail and bail bondsmen—see that heading	
Payment bond claims.....	175§11
Tenant summary ejection appeal bond	17§1
Wholesaler/retailer letter of credit.....	792.1

Surf City, Town of

ABC revenue distribution.....	125§3
Deannexation	95

Surry County—investing in Innovation grant..... 142§7.17(a)-(c)

Sustainable Communities Task Force—

technical corrections, clarifications, and conforming changes	201§§7-8
--	----------

Sustainable Local Food Advisory

Council —extended.....	75
-------------------------------	----

Swain County

Boundary with Graham County clarified.....	62(2)
TVA	
Payments in lieu of taxes.....	62(1)
Settlement funds use.....	200§20

Swansboro, Town of—state mullet festival 29

T

Tar River —development on riparian buffer	200§8(b)
Tarboro, Town of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Task Forces —alternative fueled vehicles	
purchase and infrastructure study	186§1(a)-(c)
Taxes and Assessments	
Collection	
Combined motor vehicle registration	
and property tax system	142§24.10(a)-(c)
Delinquent stormwater utility fees	
by certain cities and counties	55
No recordation of deeds for delinquent	
taxpayer in Sampson County	22§3
No special use/building permits for delinquent	
taxpayer in Sampson County	22§3
Payment of delinquent property	
taxes before recording of deeds in	
Stokes County	114
Tax due on homeowners' association property	157
Contingency contracts for audits/ assessments prohibited	152; 194§61.5(a)-(b)
Credits	
Adoption expenses extended.....	36§9
Analytical services tax refund extension.....	36§11(a)
Article 3J	
Business property definition	79§2.4
Extended	36§5
Statute of limitations correction.....	79§1.13(a)-(c)
Temporary carryforward for certain	
tier one county investments	74§5
Biodiesel producers extended	36§3
Certain industrial facilities extended.....	36§11(b)
Education expenses not allowed to	
estate or trust	79§2.6
Film tax credit extended.....	194§71.10(a)-(b)
Historic structure rehabilitation extended	36§12(a)-(b)
Long-term care insurance premiums extended	36§7
Motorsports aviation fuel tax refund extended	36§11(a)
Passenger air carrier fuel tax refund extended	36§11(a)
Qualified business ventures extended	36§10
Recycling oyster shells extended	36§6(a)-(b)
Refundable earned income extended	36§8
Renewable fuel facilities extended.....	36§2
Seafood industrial park tier one designation extended	36§1

Taxes and Assessments—continued

Work opportunity extended.....	36§4
Deductions	
Educator expense.....	74§2(a)-(b)
Technical corrections and conforming changes.....	79§1.3
Excise	
Motor fuel	
Overcollection.....	194§61.2
Tax rate reduction.....	142§24.11
Piped natural gas prepayment threshold.....	79§2.13
Fire districts	
Martin County.....	111
Food and beverages	
Lake Norman distribution.....	194§69
Franchise—see Privilege, this heading	
Fraud	
Attorney position for tax fraud prosecution.....	142§22A.1
Fuels	
Electronic filing and payment.....	79§2.15
Excise tax overcollection.....	194§61.2
Interstate passenger carrier fuel	
sales tax refund.....	74§3(a)-(c)
Motor fuel excise tax rate reduction.....	142§24.11
Piped natural gas excise tax	
prepayment threshold.....	79§2.13
Technical corrections and conforming changes.....	79§1.5
Income, corporate	
Forced combinations technical correction.....	79§1.14(a)-(g)
Rules for combined returns and adjusted	
net income by Secretary of Revenue.....	43
Technical corrections and conforming changes.....	79§1.9
Income, individual	
Adoption expenses tax credit extended.....	36§9
Educator expense deduction.....	74§2(a)-(b)
Innocent spouse clarification.....	79§2.5
Refundable earned income tax credit extended.....	36§8
Technical corrections and conforming changes.....	79§§1.2-1.3
Motor vehicle	
Combined registration and property	
tax collection system	
Conforming changes.....	79§§3.1-3.6
Effective date.....	79§3.6
Generally.....	142§24.10(a)-(c)
Occupancy	
Fontana Dam.....	107
Henderson County.....	144
Jackson County effective date postponed.....	100
Lake Norman distribution.....	194§69

Taxes and Assessments—continued

Technical corrections, clarifications, and conforming changes	194§35
Penalties change TIMS workaround.....	79§2.18(a)-(b)
Privilege	
Holding company definition	79§2.3
Property	
Collection in Samson County.....	22§3
Collection of tax due on homeowners' association property	157
Delinquent stormwater utility fee collection by certain cities and counties	55
Durham additional bases for assessments	94
Motor vehicle registration renewal/ property tax collection	
Conforming changes	79§§3.1-3.6
Effective date	79§3.6
Municipal service district effective date	156§4
Payment of delinquent property taxes before recording of deeds in Stokes County	114
Research and Production Service Districts	73; 194§62.5
Special assessment levy validated for Foxfire Village	53
Taxation and valuation of leasehold interests in exempt property study	189§2
TVA payments in lieu of taxes for Swain and Graham Counties.....	62(1)
Refunds	
Interstate carriers sales and use tax	79§2.11
Interstate passenger carrier fuel sales tax.....	74§3(a)-(c)
Specialized ports equipment sales tax.....	74§7
Sales and use	
Application to merchant giveaways	79§2.10(a)-(b)
Direct pay permit clarification	79§2.12
Interstate carriers refund.....	79§2.11
Interstate passenger carrier fuel refund	74§3(a)-(c)
Local sales tax option for beach nourishment study	189§1
Must be separately stated and charged.....	79§2.9
No use of foreign vendors refusing to collect tax	79§2.14
Specialized ports equipment refund	74§7
Streamlined definitions conforming change	79§2.7
Streamlined general sourcing provisions conforming change.....	79§2.8
Technical corrections and conforming changes	79§§1.4, 1.10
Technical corrections, clarifications, and conforming changes.....	79§§1.1-1.14(g), 2.1-2.19(b)

Taxes and Assessments—continued

Timely document filing	79§1.8
Tobacco	
Wholesaler/retailer letter of credit	792.1
Unauthorized substances	
Synthetic cannabinoids.....	79§2.2(a)-(b)

Taxis—delegate authority to regulate in Kinston..... 139§2(a)-(b)**Teachers and Education Administrators**

Dues checkoff eliminated	1
Duty to report intimidation of school employee.....	149§8
Education employee associations access	179
Educator expense deduction	74§2(a)-(b)
Forfeiture of retirement benefits for certain felonies.....	193§§1-2
Identify students with family in the military	194§55(c)
Independent Colleges and Universities	
in teacher preparation	77§1
Lateral entry teachers program report repealed.....	142§8.3(d)
Liability for ending fight/altercation	149§1
NC Teacher Corps	142§7A.7(a)-(b)
No discipline for employee in student altercations	149§10
Position allotments for schools.....	142§7.18(a)-(b); 145§2.4(a)-(b)

Positions to administer Excellent

Public Schools Act	145§2.1
Professional development evaluation repealed.....	142§7.13(f)
Reporting certain acts to law enforcement	149§7
Retirement—see that heading	
Salaries and benefits—see that heading	
Teacher assistant leave	142§7.14(a)-(c)
Teacher preparation	77§1
Teachers' and State Employees'	
Retirement System (TSERS)—see Retirement	
Technical corrections, clarifications, and conforming changes.....	194§49

Teachers' and State Employees' **Retirement System (TSERS)**—see Retirement**Teachers' and State Employees' Retirement System** **(TSERS), Board of Trustees**

Actuarial assumptions requirements.....	130§2(b)
Medical Board appointments.....	185§4(b)

Teaching Fellows Commission—

appointments and membership	141§§1.42, 2.30
-----------------------------------	-----------------

Telecommunications

Mobile electronic device agency report.....	142§6A.7
Technical corrections, clarifications, and conforming changes.....	194§36
Telecommunications relay service	142§10.24(a)-(b)

Term Lengths and Limits (see also Public Officials)—Geographic Information	
Coordinating Council.....	120§3.2
Testing	
Analytical services tax refund extension	36§11(a)
Educational	
Improve K-3 literacy	142§7A.1(a)-(i)
Read to Achieve Program	142§7A.1(a)-(i)
Motorcycle testing and instructional courses	85§1
Thomasville, City of	
Cooperative innovative high school pilot program	142§7.10
Yadkin Valley Regional Career Academy pilot program	142§7.10
Tobacco —wholesaler/retailer letter of credit.....	792.1
Toll Roads and Bridges (see also Roads and Highways)	
Electronic toll collection information confidentiality	78§12
Ferries—see that heading	
I-77 high occupancy toll project	184
I-95 tolling study.....	142§24.21(a)-(c)
No interest/penalties on past due toll accounts	78§14
Reciprocal toll enforcement agreements authorized	85§§9-11
Registration renewal blocked for unpaid tolls	85§10
Tolls (Ferries) —see Ferries	
Topsail Beach, Town of —ABC revenue distribution	125§3
Towing —see Motor Vehicle Violations and Infractions; Parking and Parking Structures	
Traffic Offenses —see Motor Vehicle Violations and Infractions	
Trailers —see Motor Vehicles	
Transitions to Community Living, Blue Ribbon Commission on —created	142§10.23A(b)-(c)
Transportation	
Metropolitan Planning Organization and Rural Planning Organization covered entities	142§24.16(a)-(d)
Mobility Fund formula codification	142§24.8(a)-(b)
Transportation, Board of	
Delegation of highway construction authority to Secretary	84§1
Ethics requirements	84§3
Ferry toll clarification	142§24.18(a)-(b); 145§6.2

Transportation, Department of

Alternative fueled vehicles purchase and infrastructure task force	186§1(a)-(c)
Appropriations	
Administration	
Current operations-Highway Fund	142§3.1
Division of Highways	
Current operations-Highway Fund	142§3.1
Division of Motor Vehicles	
Current operations-Highway Fund	142§3.1
Ferry Division	
Ferry operations	142§3.1
Ferry operations-Highway Fund.....	142§3.1
Mid-Currituck Bridge funds transfer	145§6.2
Governor's Highway Safety Program.....	142§3.1
Highway Fund	142§3.1
State Aid	142§3.1
B.S.I.P. exempt from IT hosting requirement	142§24.14
Civil penalties treated as receipts	142§24.9
Coastal fishing license and vessel titling fees study	
	190§1(a)-(c)
Combined motor vehicle registration and property tax collection system.....	
	142§24.10(a)-(c)
Division of Highways	
Appropriations—see Appropriations, this heading	
Division of Motor Vehicles	
Appropriations—see Appropriations, this heading	
Electric vehicle charging stations at rest stops	186§2(a)-(d)
Ferry Division	
Appropriations—see Appropriations, this heading	
Ferry toll clarification	142§24.18(a)-(b); 145§6.2
Highway Fund	
Cash flow appropriations	142§24.1(b)
Credit Reserve Balance clarification.....	142§24.6
General Fund transfer.....	142§24.13
Inspection Program Account other uses.....	142§24.3
Unexpended contingency funds	142§24.12
Highway projects prioritization process	84§2
Highway Trust Fund	
Cash flow appropriations	142§24.1(c)
Fixed guideway projects use	142§24.19(b)
Garden Parkway funds transfer	142§24.7(a)-(b)
Mid-Currituck Bridge funds transfer	142§24.7(a)-(b)
I-77 high occupancy toll project	184
I-95 tolling study.....	142§24.21(a)-(c)

Transportation, Department of—continued

Mobility Fund formula codification	142§24.8(a)-(b)
Motor Vehicles, Division of—see that heading	
Oil and gas exploration regulation	
identification of costs	143§2(j)
Pre-construction activities privatization	142§24.2
Public Transportation Division	
LYNX Blue Line Extension/ Northeast Corridor project	142§24.19(a)
Regional New Starts & Capital Program eliminated	142§24.19(a)
Recycled asphalt use.....	8
Relocation of municipal utilities.....	145§6.1
Reports—see that heading	
Road maintenance/construction bids	
not public record.....	78§11
Rural Planning Organization area definition	44
Sealed ship containers non-divisible load rules.....	78§§15-16
Secretary	
Delegation of Boards's highway construction authority	84§1
Salary	142§25.02(a)-(b)
Self-propelled agricultural equipment	
on interstates authorization process.....	78§5
State Highway Administrator name	
change to Chief Engineer	85§§4-8
Unpaved roads prioritization	142§24.15
Transylvania County —TVA settlement funds use	200§20
Trapping —see Hunting and Fishing	
Travel and Tourism	
Occupancy tax	
Fontana Dam	107
Henderson County.....	144
Jackson County effective date postponed	100
Lake Norman Convention and Visitors' Bureau tax distribution	194§69
Tourism Development Authorities	
Fontana Dam	107§1(d)-(f)
Henderson County.....	144
Treasurer, State —see State Treasurer, Department of	
Tribal Government	
Community college tuition waiver for certain emergency personnel	142§8.8
Indian gaming compact Class III games.....	6
Trusts and Estates —see Estates and Trusts	
TSERS (Teachers' and State Employees' Retirement System) —see Retirement	

Tuition

Community college waiver for certain emergency personnel	142§8.8
Federal loan program opt out for community colleges.....	31
Financial aid administrative costs.....	142§8.11(a)-(c)
Financial aid technical correction.....	142§9.2(a)-(d)
Scholarships for private institutions funds	142§9.2(d)
UNC financial aid for private colleges	142§2.1
UNC Need-Based Financial Aid	
Lottery Fund appropriations.....	142§5.3(d), (i)
UNC surcharge study.....	142§9.8

Turnpike Authority

Appointments and membership	141§1.46
Appropriations	
Current operations	142§4.1
Gap fund adjustment	142§24.7(a)-(b)
Garden Parkway funds transfer	142§24.7(a)-(b)
Mid-Currituck Bridge funds transfer	142§24.7(a)-(b); 145§6.2
Electronic toll collection information confidentiality	78§12
No interest/penalties on past due toll accounts.....	78§14
Reciprocal toll enforcement agreements authorized	85§§9-11

Tyrrell County

Coastal area county designation	202§1
Columbia, Town of—see that heading	
Hurricane Irene disaster loans	142§6.7(a)-(b)

U

Umstead Act	194§60
--------------------------	--------

UNC Board of Governors (see also University
of North Carolina, General Administration)

Acquisition and disposition of real property	142§9.10(a)-(d)
Appointments—see that heading	
Appropriations	
Arts and sciences schools	
management flexibility	142§9.14(a)-(b)
Carryforward for capital projects	142§26.10
Current operations	142§2.1
Financial aid administrative costs	142§8.11(a)
Medical School.....	145§2.3
Military One-Stop & BRAC	
Outreach program transfer	142§9.7
Need-Based Financial Aid	142§5.3(i)
Partnership for National Security.....	142§9.13
Repairs and Renovations Reserve	
Account allocations.....	142§26.4(a)-(c)

UNC Board of Governors —continued	
Scholarships for private institutions.....	142§9.2(d)
Capital improvement projects.....	164§§1-7
Cooperative Innovative High Schools	
programs clarification.....	142§7.11(a)-(i)
Learn and Earn high school workforce	
development evaluation repealed	142§7.13(a)
Liability insurance purchase	142§9.15
NC Teacher Corps	142§7A.7(a)-(b)
Reports—see that heading	
School employee professional	
development evaluation repealed	142§7.13(f)
Separate juice and water bids for	
education entities repealed	89
Special responsibility constituent institution audits	142§17.2
System salaries.....	142§25.1D(a)-(c)
Teacher preparation	77§1
UNC Health Care System, Board of	
Directors—appointments and membership	174
Unclaimed Property —see Property	
Unemployment —see Employment	
Unemployment Insurance —see Insurance	
Uniform Commercial Code	70
Uniform Trust Code	18§§3.1-3.4
Union County	
Design-build for law enforcement/ human services facilities.....	59
Marvin, Village of—see that heading	
Stallings, Town of—see that heading	
University of North Carolina	
Agricultural Extension Service	
Appropriations-current operations	142§2.1
Agricultural Research Service	
Appropriations-current operations	142§2.1
Appalachian State University	
Appropriations-current operations	142§2.1
Capital improvement projects	164§2
Appropriations—see particular campus, this heading; UNC Board of Governors	
Board of Governors—see UNC Board of Governors	
Capital improvement projects.....	164§§1-7
East Carolina University	
Accounts receivable process exceptions	194§68(a)-(c)
Appropriations-current operations	142§2.1
Capital improvement projects	164§2
Health care service providers rental receipts	194§67
Elizabeth City State University	
Appropriations-current operations	142§2.1

University of North Carolina—continued

Faculty Recruiting and Retention Fund reestablished.....	142§25.3
Fayetteville State University	
Appropriations-current operations	142§2.1
Military One-Stop & BRAC Outreach program transferred to General Administration.....	142§9.7
Financial aid	
Administrative costs	142§8.11(a)
Technical correction.....	142§9.2(a)-(d)
Forfeiture of retirement benefits for certain felonies	193§11
General Administration (see also UNC Board of Governors)	
Military One-Stop & BRAC Outreach program transferred from Fayetteville State.....	142§9.7
Health Care System	
Div. of Public Health duties transfer study	126§5
Kannapolis Research Campus	
Acquisition and disposition of real property.....	142§9.10(a)-(d)
North Carolina Agricultural and Technical State University	
Appropriations-current operations	142§2.1
Capital improvement projects	164§3
North Carolina Central University	
Appropriations-current operations	142§2.1
Capital improvement projects	164§3
North Carolina State University	
Agricultural Extension Service—see Agricultural Extension Service, this heading	
Agricultural Research Service—see Agricultural Research Service, this heading	
Appropriations-current operations	142§2.1
Capital improvement projects	164§2
Optional retirement system	
Expansion	142§25.12
Forfeiture funds	142§25.11
School of Government—see UNC-Chapel Hill, this heading	
School of Science and Mathematics	
Appropriations	
Current operations.....	142§2.1
Management flexibility.....	142§9.14(a)-(b)
School of the Arts	
Appropriations	
Current operations.....	142§2.1
Management flexibility.....	142§9.14(a)-(b)
Special responsibility constituent institution audits	142§17.2

University of North Carolina—continued

Student fees appropriation and use	142§9.9
Tuition	
Cost for veterans study	142§9.1
Surcharge study	142§9.8
UNC-Asheville	
Appropriations	
Current operations.....	142§2.1
Management flexibility.....	142§9.14(a)-(b)
Capital improvement projects	164§2
UNC-Chapel Hill	
Appropriations	
AHEC.....	142§2.1; 145§1.1
Bowles Center for Alcohol Studies	145§2.2
Current operations.....	142§2.1
Capital improvement projects	164§§2, 3, 6
School of Government	
Area board training curriculum	151§4(b)
School of Public Health	
Div. of Public Health duties transfer study	126§5
UNC Hospitals—see UNC Hospitals, this heading	
UNC-Charlotte	
Appropriations-current operations	142§2.1
Capital improvement projects	164§2
UNC-Greensboro	
Appropriations-current operations	142§2.1
Capital improvement projects	164§2
UNC Health Care System, Board of	
Directors—see that heading	
UNC Hospitals	
Appropriations-current operations	145§1.1
UNC Hospitals at Chapel Hill	
Appropriations-current operations	142§2.1
UNC-Pembroke	
Appropriations-current operations	142§2.1
UNC-Wilmington	
Appropriations-current operations	142§2.1
Social and Behavioral Science Building	142§26.6
Western Carolina University	
Appropriations-current operations	142§2.1
Winston-Salem State University	
Appropriations-current operations	142§2.1
Capital improvement projects	164§§2, 3, 7
University of North Carolina, Board of Governors —see UNC Board of Governors	

Utilities

Community water system definition.....	200§10
Critical infrastructure trespass	168§1
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Move Over Law for utility vehicles	14
Regulatory fees set.....	74§1(a)-(d)
Relocation of municipal utilities by DOT	145§6.1
TVA payments in lieu of taxes for	
Swain and Graham Counties	62(1)
Water and sewer systems—see that heading	

Utilities Commission

Chair's salary.....	142§25.1(a)
Criminal records check for transporters	
of household goods.....	9
Member's salary	142§25.1(a)
Regulatory fees set.....	74§1(a)-(d)
Technical corrections, clarifications,	
and conforming changes.....	194§16

V**Vacation and Leave**—see Salaries and Benefits**Veterinary Medical Board**—appointments

and membership	120§3.1;
	141§1.43

Visitation Rights—see Child Custody
and Support**Vocational Rehabilitation**—workers' compensation..... 135§7**Voluntary Health Care Services Act**..... 155;
194§47(a)-(c)**Volunteers and Volunteerism**

Health care services	155;
	194§47(a)-(c)

Safety Workers Compensation Fund assessment..... 142§20.4(a)-(b)

Voter-Owned Elections Act..... 142§23.5**Voter Registration**—technical corrections,

clarifications, and conforming changes	194§37
--	--------

W**Wake County**

Apex, Town of—see that heading	
Cary, Town of—see that heading	
Fuquay-Varina, Town of—see that heading	
Garner, Town of—see that heading	
Holly Springs, Town of—see that heading	

Wake County—continued

- Knightdale, Town of—see that heading
- Morrisville, Town of—see that heading
- Raleigh, City of—see that heading
- Rolesville, town of—see that heading
- Wake Forest, Town of—see that heading
- Wake Tech CC Board membership eligibility 99
- Wendell, Town of—see that heading
- Zebulon, Town of—see that heading

Wake Forest, Town of

- Eastern Municipal Power Agency
 - Public meeting prior to rate changes 167
 - Revenue use..... 181
- Limit access to minors' information 139§1(a)-(b)

Wallace, Town of—satellite annexation restrictions removed 118**Washington, City of**

- Eastern Municipal Power Agency
 - Public meeting prior to rate changes 167
 - Revenue use..... 181

Washington County—coastal area county designation 202§1**Waste Management**..... 201§3

- Regional solid waste management authority
 - a local agency for debt setoff collection..... 88
- Sanitary landfill permit duration and review periods 187§15.1
- Scrap tire collector access to disposal site..... 200§14(a)-(b)
- Septage management firm pumper truck regulation 200§15
- Type I solid waste compost facility discharge permit 200§5
- Waste kitchen grease collection regulation 127

Watauga County

- Boone, City of—see that heading
- TVA settlement funds use 200§20

Water and Sewer Systems

- Alternative stormwater control at airports..... 200§6
- Community water system definition..... 200§10
- Durham additional bases for assessments 94
- Industrial Development Fund sewer
 - improvement use in adjoining counties 74§4
- Lower Cape Fear Water and Sewer Authority
 - design-build water transmission line 60
- Metropolitan Sewerage Districts
 - Appointments and membership..... 203§§1-3
 - Powers 203§4
- Noncontiguous property local water
 - supply watershed program compliance 200§7
- Private drinking wells setback variances 200§11(a)-(c)
- Technical corrections, clarifications,
 - and conforming changes..... 194§33
- Testing wells for volatile organic compounds..... 187§12(a)-(b)

Water Resources (see also Lakes and Rivers)	
Agriculture water resources assistance funds	142§11.2A(b)
Basinwide water quality management	
plans goals and cycle	200§9(a)-(g)
Certain projects flexibility	166
Conservation Reserve Enhancement Program	145§4.3
Development projects funds	142§26.2(a)-(f)
Jordan and Falls Reservoir nutrient	
management strategies.....	187§12.1
Jordan water supply nutrient strategy	
and stormwater management for new	
development	201§11(a)-(e)
Kerr Lake water supply reallocation study	200§2(a)-(b)
Noncontiguous property local water	
supply watershed program compliance	200§7
Nutrient sensitive water compliance	
schedule flexibility	200§9(a)-(g)
Oil and gas exploration landowner	
and public protections.....	143§4(a)-(i); 201§12(d)
Stormwater capture and reuse.....	200§1
Type I solid waste compost facility	
discharge permit	200§5
Watha, Town of —ABC revenue	
distribution	125§3
Wayne County	
Airport authority dissolved.....	26
Fremont, Town of—see that heading	
Goldsboro, City of—see that heading	
Pikeville, Town of—see that heading	
Sheriff vacancy	25
Weapons —prohibition in declared	
emergency area repealed.....	12§2(c)
Welfare	
Child care subsidy rate provision	142§10.2
Loss of public assistance for	
probation violator	170
Low-income home energy assistance	
block grant.....	142§10.25(a), (x)-(y)
TANF/Work First	
Benefit implementation revised	
dates	142§10.22
Block Grants.....	142§10.25(a); 145§3.1(a)
Well Contractors Certification	
Commission —appointments and membership	141§§1.44, 2.40, 3.1

Wells (Oil and Gas) —see Mining and Mineral Exploration	
Wells (Water) —see Water and Sewer Systems	
Wendell, Town of —limit access to minors' information.....	139§1(a)-(b)
Western North Carolina Public Lands Council — technical corrections, clarifications, and conforming changes.....	201§9
Western North Carolina Regional Economic Development Commission	
Allocation	142§13.12; 145§4.8
Appointments and membership	141§2.41
Whistleblowers	
Local Government Employees Retirement System.....	185§1
State Health Plan.....	192§§2-3
Wildlife Resources Commission	
Appointments and membership	141§2.31
Appropriations-current operations.....	142§2.1
Budget code	142§12.6
Capital improvement projects.....	164§8
Coastal fishing license and vessel titling fees study.....	190§1(a)-(c)
Fisheries management agencies organization study.....	190§2(a)-(c)
Increased penalties for certain violations	200§19
License early renewal penalty eliminated	81
Reports—see that heading	
Technical corrections, clarifications, and conforming changes.....	194§45(d)
Wilkes County	
Investing in Innovation grant.....	142§7.17(a)-(c)
School calendar pilot program.....	142§7.4
Wills —see Estates and Trusts	
Wilmington, City of	
Annexation.....	138
Lower Cape Fear Water and Sewer Authority design-build water transmission line	60
Repeal of involuntary annexation.....	3§§1-2, 4
UNC-Wilmington—see University of North Carolina	
Wilson, City of	
Eastern Municipal Power Agency	
Public meeting prior to rate changes	167
Revenue use.....	181
Eastern North Carolina School for the Deaf—see Public Instruction, Department of	
Wilson County	
Wilson, City of—see that heading	
Wine and Grape Growers Council	
Position transfer	145§4.5
Transfer from Commerce to Agriculture.....	142§13.9A(a)-(b)

Wineries and Breweries

- Beer franchise law clarifications 4
 Technical corrections, clarifications,
 and conforming changes..... 194§45.5

Winston-Salem, City of

- Firemen's Retirement Fund
 Heroes Earnings Assistance and
 Relief Tax Act compliance 123§1(a)-(b)
 Salary deduction 123§1(a)-(b)
 UNC School of the Arts—see University
 of North Carolina
 Winston-Salem State University—see
 University of North Carolina

Women

- Maternal and child health block grant 142§10.25(a),
 (bb)-(cc)
 Maternity homes block grant 142§10.25(a), (r)
 Newborn screening program followup testing 142§10.25(cc)
 Prenatal Quality Collaborative block grant 142§10.25(a)
 Teen pregnancy initiative block grant 142§10.25(a),
 (bb)-(cc)

Woodfin, Town of

- Adjust boundaries with Asheville..... 119
 Intergovernmental agreements for
 services with Asheville authorized..... 119§5

Work Safety—oil and gas exploration

- health and safety standards 143§2(c)

Workers' Compensation—see Insurance**Workers' Compensation Insurance****Coverage Compliance and Fraud****Prevention and Detection, Joint**

- Legislative Committee on—created** 135§8(a)-(g)

Workforce Development, Commission on

- Advisory Work Group 131§1(a)
 Appointments and membership 131§1(a)-(b)
 Duties 131§1(a)
 Local and regional coordination 131§§2-3
 Reports—see that heading

Workforce Development System**Reform Oversight Committee, Joint**

- Legislative—created**..... 131§7(a)-(e)

Y

- Yadkin River—Veterans Memorial Bridge named**..... 42

Yancey County

- Investing in Innovation grant..... 142§7.17(a)-(c)
 TVA settlement funds use 200§20

Z

Zebulon, Town of—limit access to
minors' information..... 139§1(a)-(b)

Zoos and Aquariums

Aquarium budgeting clarification..... 142§12.8

New pier construction and satellite
areas by aquariums prohibited..... 142§12.5(a)-(e)

Zoos, parks, and aquariums savings
and revenue enhancements study 93§2

**INDEX TO RESOLUTIONS
2011 GENERAL ASSEMBLY
REGULAR SESSION 2012**

A

Adjournment 1; 12

Appointments—confirm Tamara Nance to
Industrial Commission 3

Armed Forces

 Honoring Daniel Lucas Elliott and all
 citizen soldiers 4

 Honoring the USO and supporters..... 6

 Honoring those killed 2

B

Boney, Judge Harvey—honored for
support and work with USO 6

Broughton, Carrie L.—honored for role in
State Library..... 7

C

Carpenter, Robert C. "Bob" 5

Corporations, Nonprofit--honoring the
USO and supporters 6

Cultural Resources, Department of—
honoring State Library 7

D

Deceased Persons (see also General
Assembly, Deceased former members)

 Carpenter, Robert C. "Bob" 5

 Elliott, Daniel Lucas 4

E

Elliott, Daniel Lucas..... 4

F

Forrester, James Summers "Jim," Jr...... 9

G

General Assembly

Adjournment 1; 12
 Confirm Tamara Nance to Industrial
 Commission..... 3
 Deceased former members
 Carpenter, Robert C. "Bob" 5
 Forrester, James Summers "Jim," Jr..... 9
 Ives, William Maner "Bill" 8
 Shaw, Robert G. "Bob" 10

H

Hardiman, SgtMaj Matthew—honored
 for support and work with USO..... 6
Holidays
 Memorial Day
 Honoring service members killed 2

I

Industrial Commission—confirm Tamara
 Nance 3
Ives, William Maner "Bill" 8

K

Kinston, City of—honoring founders 11

L

Lenoir County
 Kinston, City of—see that heading
Libraries--honoring State Library..... 7

R

Resolutions Amended or Repealed
 Resolution 2011-12..... 1

S

Shaw, Robert G. "Bob" 10
Sheehan, William—honored for support
 and work with USO 6