

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-217
SENATE BILL 1279

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO MAKE OTHER TECHNICAL CORRECTIONS, TO CLARIFY THAT THE ATTORNEY GENERAL MAY EXEMPT CERTAIN BUSINESS COMBINATIONS FROM THE SHAREHOLDER PROTECTION ACT, TO AUTHORIZE THE INDUSTRIAL COMMISSION TO ISSUE WRITS OF HABEAS CORPUS AD TESTIFICANDUM, TO RESTORE A PROVISION ON COMMUNITY SERVICE PASSED BUT NOT CODIFIED IN 1997, TO EXTEND THE TIME TO OBTAIN VOLUNTARY EASEMENTS FOR CERTAIN STRUCTURES OVER STATE-OWNED LANDS BY THREE YEARS, TO PROHIBIT CANDIDATES FOR SUPERIOR COURT FROM RUNNING FOR ANOTHER OFFICE AT THE SAME TIME, TO REVISE THE APPLICABILITY CLAUSE OF THE WORKPLACE HARASSMENT LAW CONCERNING CASES DISMISSED WITHOUT PREJUDICE PRIOR TO AUGUST 15, 1998, TO PROVIDE FOR THE LICENSING OF THIRD-PARTY ADMINISTRATORS SERVING WORKERS' COMPENSATION SELF-INSURED GROUPS, TO CLARIFY THE LAW GOVERNING VEHICLE FORFEITURE TO SCHOOLS FOR DWI OFFENSES, TO EXTEND THE DATE FOR THE RURAL TRANSPORTATION PLANNING ORGANIZATION STUDY, TO PROVIDE FOR PROOF OF COMPLIANCE WITH THE MEDICAL MALPRACTICE EXPERT WITNESS RULE THROUGH LIMITED INTERROGATORIES VERIFIED BY THE EXPERT, TO CORRECT A REFERENCE TO PROBATIONARY TEACHERS IN THE BUDGET, TO RESOLVE A CONFLICT WITH THE EFFECTIVE DATE OF LEGISLATION INVOLVING MUNICIPAL INCORPORATION PROCEDURES, AND TO CORRECT AN INADVERTENT OMISSION IN THE BUDGET CONCERNING RECEIPT-SUPPORTED POSITIONS IN THE STATE TREASURER'S OFFICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-34.6(a)(2) reads as rewritten:

"(2) ~~An~~ A medical responder."

Section 2. G.S. 14-399(c) reads as rewritten:

"(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars

(\$500.00) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed."

Section 3. (a) G.S. 14-408 reads as rewritten:

"§ 14-408. Violation of § 14-406 or 1407 a misdemeanor.

Any person, firm, or corporation violating any of the provisions of G.S. 14-406 or 14-407 shall be guilty of a Class 2 misdemeanor."

(b) This section becomes effective December 1, 1998. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

Section 4. (a) G.S. 14-74 reads as rewritten:

"§ 14-74. Larceny by servants and other employees.

If any servant or other employee, to whom any money, goods or other chattels, or any of the articles, securities or choses in action mentioned in ~~the following section,~~ G.S. 14-75, by his master shall be delivered safely to be kept to the use of his master, shall withdraw himself from his master and go away with such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, with intent to steal the same and defraud his master thereof, contrary to the trust and confidence in him reposed by his said master; or if any servant, being in the service of his master, without the assent of his master, shall embezzle such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal them, or to defraud his master thereof, the servant so offending shall be guilty of a felony: Provided, that nothing contained in this section shall extend to apprentices or servants within the age of 16 years. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is less than one hundred thousand dollars (\$100,000), the person is guilty of a Class H felony."

(b) G.S. 25-7-502 reads as rewritten:

"§ 25-7-502. Rights acquired by due negotiation.

(1) Subject to ~~the following section~~ G.S. 25-7-503 and to the provisions of G.S. 25-7-205 on fungible goods, a holder to whom a negotiable document of title has been duly negotiated acquires thereby:

(a) title to the document;

- (b) title to the goods;
- (c) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and
- (d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by him except those arising under the terms of the document or under this article. In the case of a delivery order the bailee's obligation accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to ~~the following section, G.S. 25-7-503,~~ title and rights so acquired are not defeated by any stoppage of the goods represented by the document or by surrender of such goods by the bailee, and are not impaired even though the negotiation or any prior negotiation constituted a breach of duty or even though any person has been deprived of possession of the document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion, or even though a previous sale or other transfer of the goods or document has been made to a third person."

(c) G.S. 25-7-507 reads as rewritten:

"§ 25-7-507. Warranties on negotiation or transfer of receipt or bill.

Where a person negotiates or transfers a document of title for value otherwise than as a mere intermediary under ~~the next following section, G.S. 25-7-508,~~ then unless otherwise agreed he warrants to his immediate purchaser only in addition to any warranty made in selling the goods

- (a) that the document is genuine; and
- (b) that he has no knowledge of any fact which would impair its validity or worth; and
- (c) that his negotiation or transfer is rightful and fully effective with respect to the title to the document and the goods it represents."

(d) G.S. 44A-21 reads as rewritten:

"§ 44A-21. Pro rata payments.

In the event that the funds in the hands of the obligor and the obligor's personal liability, if any, under ~~the previous section G.S. 44A-20~~ are less than the amount of valid lien claims that have been filed with the obligor under this Article the parties entitled to liens shall share the funds on a pro rata basis."

Section 5. G.S. 25-8-103(a) reads as rewritten:

"(a) A share ~~of~~ or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security."

Section 6. G.S. 39-23.3(b) reads as rewritten:

"(b) For the purposes of G.S. 39-23.4(a)(2) and G.S. 39-23.5, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, ~~nonexclusive~~ noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement."

Section 7. (a) G.S. 50-11(e) reads as rewritten:

"(e) An absolute divorce obtained within this State shall destroy the right of a spouse to ~~an equitable distribution of the marital property~~ under G.S. 50-20 unless the right is asserted prior to judgment of absolute divorce; except, the defendant may bring an action or file a motion in the cause for equitable distribution within six months from the date of the judgment in such a case if service of process upon the defendant was by publication pursuant to G.S. 1A-1, Rule 4 and the defendant failed to appear in the action for divorce."

(b) G.S. 50-11(f) reads as rewritten:

"(f) An absolute divorce by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property shall not destroy the right of a spouse to ~~an equitable distribution of marital property~~ under G.S. 50-20 if an action or motion in the cause is filed within six months after the judgment of divorce is entered. The validity of such divorce may be attacked in the action for equitable distribution."

(c) G.S. 50-20 reads as rewritten:

"§ 50-20. Distribution by court of marital and divisible property upon divorce.

(a) Upon application of a party, the court shall determine what is the marital property and divisible property and shall provide for an equitable distribution of the marital property and divisible property between the parties in accordance with the provisions of this section.

(b) For purposes of this section:

- (1) 'Marital property' means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property or divisible property in accordance with subdivision (2) or (4) of this subsection. Marital property includes all vested and nonvested pension, retirement, and other deferred compensation rights, and vested and nonvested military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act. It is presumed that all property acquired after the date of marriage and before the date of separation is marital property except property which is separate property under subdivision (2) of this subsection. This presumption may be rebutted by the greater weight of the evidence.
- (2) 'Separate property' means all real and personal property acquired by a spouse before marriage or acquired by a spouse by bequest, devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance. The increase in value of separate

property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which would terminate on transfer shall be considered separate property.

(3) 'Distributive award' means payments that are payable either in a lump sum or over a period of time in fixed amounts, but shall not include alimony payments or other similar payments for support and maintenance which are treated as ordinary income to the recipient under the Internal Revenue Code.

(4) 'Divisible property' means all real and personal property as set forth below:

a. All appreciation and diminution in value of marital property and divisible property of the parties occurring after the date of separation and prior to the date of distribution, except that appreciation or diminution in value which is the result of postseparation actions or activities of a spouse shall not be treated as divisible property.

b. All property, property rights, or any portion thereof received after the date of separation but before the date of distribution that was acquired as a result of the efforts of either spouse during the marriage and before the date of separation, including, but not limited to, commissions, bonuses, and contractual rights.

c. Passive income from marital property received after the date of separation, including, but not limited to, interest and dividends.

d. Increases in marital debt and financing charges and interest related to marital debt.

(c) There shall be an equal division by using net value of marital property and not value of divisible property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property and divisible property equitably. Factors the court shall consider under this subsection are as follows:

(1) The income, property, and liabilities of each party at the time the division of property is to become effective;

(2) Any obligation for support arising out of a prior marriage;

(3) The duration of the marriage and the age and physical and mental health of both parties;

(4) The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects;

(5) The expectation of pension, retirement, or other deferred compensation rights that are not marital property;

(6) Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the party not

having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage earner or homemaker;

- (7) Any direct or indirect contribution made by one spouse to help educate or develop the career potential of the other spouse;
- (8) Any direct contribution to an increase in value of separate property which occurs during the course of the marriage;
- (9) The liquid or nonliquid character of all marital ~~property~~; property and divisible property;
- (10) The difficulty of evaluating any component asset or any interest in a business, corporation or profession, and the economic desirability of retaining such asset or interest, intact and free from any claim or interference by the other party;
- (11) The tax consequences to each party;
- (11a) Acts of either party to maintain, preserve, develop, or expand; or to waste, neglect, devalue or convert ~~such the marital property~~; property or divisible property, or both, during the period after separation of the parties and before the time of distribution; and
- (12) Any other factor which the court finds to be just and proper.

(c1) Notwithstanding any other provision of law, a second or subsequent spouse acquires no interest in the marital property and divisible property of his or her spouse from a former marriage until a final determination of equitable distribution is made in the marital property and divisible property of the spouse's former marriage.

(d) Before, during or after marriage the parties may by written agreement, duly executed and acknowledged in accordance with the provisions of G.S. 52-10 and 52-10.1, or by a written agreement valid in the jurisdiction where executed, provide for distribution of the marital property or divisible property, or both, in a manner deemed by the parties to be equitable and the agreement shall be binding on the parties.

(e) Subject to the presumption of subsection (c) of this section that an equal division is equitable, it shall be presumed in every action that an in-kind distribution of marital or divisible property is equitable. This presumption may be rebutted by the greater weight of the evidence, or by evidence that the property is a closely held business entity or is otherwise not susceptible of division in-kind. In any action in which the presumption is rebutted, the court in lieu of in-kind distribution shall provide for a distributive award in order to achieve equity between the parties. The court may provide for a distributive award to facilitate, effectuate or supplement a distribution of marital or divisible property. The court may provide that any distributive award payable over a period of time be secured by a lien on specific property.

(f) The court shall provide for an equitable distribution without regard to alimony for either party or support of the children of both parties. After the determination of an equitable distribution, the court, upon request of either party, shall consider whether an order for alimony or child support should be modified or vacated pursuant to G.S. 50-16.9 or 50-13.7.

(g) If the court orders the transfer of real or personal property or an interest therein, the court may also enter an order which shall transfer title, as provided in G.S. 1A-1, Rule 70 and G.S. 1-228.

(h) If either party claims that any real property is marital ~~property, property or divisible property~~, that party may cause a notice of lis pendens to be recorded pursuant to Article 11 of Chapter 1 of the General Statutes. Any person whose conveyance or encumbrance is recorded or whose interest is obtained by descent, prior to the filing of the lis pendens, shall take the real property free of any claim resulting from the equitable distribution proceeding. The court may cancel the notice of lis pendens upon substitution of a bond with surety in an amount determined by the court to be sufficient provided the court finds that the claim of the spouse against property subject to the notice of lis pendens can be satisfied by money damages.

(i) Upon filing an action or motion in the cause requesting an equitable distribution or alleging that an equitable distribution will be requested when it is timely to do so, a party may seek injunctive relief pursuant to G.S. 1A-1, Rule 65 and Chapter 1, Article 37, to prevent the disappearance, waste or conversion of property alleged to be marital ~~property, property, divisible property~~, or separate property of the party seeking relief. The court, in lieu of granting an injunction, may require a bond or other assurance of sufficient amount to protect the interest of the other spouse in the ~~marital or separate~~ property. Upon application by the owner of separate property which was removed from the marital home or possession of its owner by the other spouse, the court may enter an order for reasonable counsel fees and costs of court incurred to regain its possession, but such fees shall not exceed the fair market value of the separate property at the time it was removed.

(i1) Unless good cause is shown that there should not be an interim distribution, the court may, at any time after an action for equitable distribution has been filed and prior to the final judgment of equitable distribution, enter orders declaring what is separate property and may also enter orders dividing part of the marital property, divisible property or debt, or marital debt between the parties. The partial distribution may provide for a distributive award and may also provide for a distribution of marital property, marital debt, divisible property, or divisible debt. Any such orders entered shall be taken into consideration at trial and prior credit given.

Hearings held pursuant to this subsection may be held at sessions arranged by the chief district court judge pursuant to G.S. 7A-146 and, if held at such sessions, shall not be subject to the reporting requirements of G.S. 7A-198.

(j) In any order for the distribution of property made pursuant to this section, the court shall make written findings of fact that support the determination that the marital property and divisible property has been equitably divided.

(k) The rights of the parties to an equitable distribution of marital property and divisible property are a species of common ownership, the rights of the respective parties vesting at the time of the parties' separation."

Section 8. G.S. 62-268 reads as rewritten:

"§ 62-268. Security for protection of public; liability insurance.

No certificate or broker's license shall be issued or remain in force until the applicant shall have procured and filed with the Division of Motor Vehicles such security bond, insurance or self-insurance for the protection of the public as the Commission shall by regulation require. The Commission shall require that every motor carrier for which a certificate or license is required by the ~~provision~~ provisions of this Chapter, shall maintain liability insurance or satisfactory surety of at least fifty thousand dollars (\$50,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, one hundred thousand dollars (\$100,000) because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars (\$50,000) because of injury to or destruction of property of others in any one accident; and the Commission may require any greater amount of insurance as may be necessary for the protection of the public. Notwithstanding any rule or regulation to the contrary, the Commission shall not require that any insurance procured and filed be provided in any single policy of insurance or through a single insurer, if the insurers involved are otherwise qualified. A motor carrier may satisfy the requirements of the Commission by procuring insurance with coverage and limits of liability required by the Commission in one or more policies of insurance issued by one or more insurers.

Notwithstanding any other provisions of this section or Chapter, bus companies shall file with the Commission proof of financial responsibility in the form of bonds, policies of insurance, or shall qualify as a self insurer, with minimum levels of financial responsibility as prescribed for motor carriers of passengers pursuant to the provisions of 49 U.S.C. § ~~10927(a)(1)~~ 31138. Provided, further, that no bus company operating solely within the State of North Carolina and which is exempt from regulation under the provisions of G.S. 62-260(a)(7) shall be required to file with the Commission proof of the financial responsibility in excess of one million five hundred thousand dollars (\$1,500,000)."

Section 9. G.S. 78C-16(b) reads as rewritten:

"(b) It is unlawful for any person required to be registered as an investment adviser under this Chapter to employ an investment adviser representative unless the investment adviser representative is registered under this Chapter. The registration of an investment adviser representative is not effective during any period when the investment adviser representative is not employed by (i) an investment adviser registered under this Chapter; or (ii) an investment adviser covered under federal law who has made a notice filing pursuant to the provisions of G.S. 78C-17(a1). When an investment adviser representative begins or terminates employment or association with an investment adviser who is registered under this Chapter, the investment adviser shall notify promptly the Administrator. When an investment adviser representative begins or terminates employment or association with an investment adviser covered under federal law, the investment adviser representative shall, and the investment adviser may, notify promptly the Administrator. ~~No investment adviser representative may be registered with more than one investment adviser unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control.~~ No investment adviser representative may be registered with more than one investment adviser or investment adviser covered under federal law unless each of the

investment advisers which employs or associates the investment adviser representative is under common ownership or control."

Section 10. G.S. 90-113.40(a)(8) reads as rewritten:

"(8) The applicant for substance abuse counselor has completed either a total of 6,000 hours of supervised experience in the field, whether paid or volunteer, or, if a graduate of a Board-approved master's degree program, a total of 3,000 hours of supervised experience in the field, whether paid or volunteer. The applicant for substance abuse prevention consultant has completed a total of 10,000 hours supervised experience in the field, whether paid or volunteer, or 4,000 hours if the applicant has at least a bachelors degree in a human services field."

Section 11. G.S. 110-91(10) reads as rewritten:

"(10) Each operator or staff member shall attend to any child in a nurturing and appropriate manner, and in keeping with the child's developmental needs.

Each ~~child~~-child care facility shall have a written policy on discipline, describing the methods and practices used to discipline children enrolled in that facility. This written policy shall be discussed with, and a copy given to, each child's parent prior to the first time the child attends the facility. Subsequently, any change in discipline methods or practices shall be communicated in writing to the parents prior to the effective date of the change.

The use of corporal punishment as a form of discipline is prohibited in ~~child~~-child care facilities and may not be used by any operator or staff member of any child care facility, except that corporal punishment may be used in ~~religious-sponsored-child~~-religious sponsored child care facilities as defined in G.S. 110-106, only if (i) the ~~religious-sponsored-child~~-religious sponsored child care facility files with the Department a notice stating that corporal punishment is part of the religious training of its program, and (ii) the ~~religious-sponsored-child~~-religious sponsored child care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of ~~nonreligious-sponsored-child~~-nonreligious sponsored child care facilities shall clearly state the prohibition on corporal punishment."

Section 12. G.S. 115C-404(a) reads as rewritten:

"(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ G.S. 7A-675.2 are confidential records, are not public records as defined under G.S.132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition

for expunction of the records. At that time, the principal shall shred, burn, or otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents."

Section 13. G.S. 130A-233 reads as rewritten:

"§ 130A-233. Definitions.

The following definitions apply to this Part:

- (1) Coastal fishing ~~waters, as defined~~ waters. – Defined in G.S. 113-129(4).
- (2) Inland fishing ~~waters, as defined~~ waters. – Defined in G.S. 113-129(9)."

Section 14. (a) G.S. 139-3.1 is repealed.

(b) The repeal of this section shall not be construed to affect any language currently in the General Statutes.

Section 15. G.S. 143-53(a)(2) reads as rewritten:

- "(2) Prescribing the routine, including consistent contract language, for securing bids on items that do not ~~not~~ exceed the bid value benchmark established under the provisions of G.S. 143-53.1 or G.S. 116-31.10.

The purchasing delegation for securing ~~offers, offers~~ (excluding the special responsibility constituent institutions of The University of North Carolina), for each State department, institution, agency, community college, and public school administrative unit shall be determined by the Director of the Division of Purchase and Contract. For the State agencies this shall be done following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the Division of Purchase and Contract may set or lower the delegation, or raise the delegation upon written request by the agency, after consideration of their overall capabilities, including staff resources, purchasing compliance reviews, and audit reports of the individual agency. The routine prescribed by the Secretary shall include contract award protest procedures and consistent requirements for advertising of solicitations for securing offers issued by State departments, institutions, universities (including the special responsibility constituent institutions of The University of North Carolina), agencies, community colleges, and the public school administrative units."

Section 16. G.S. 143-129(f) reads as rewritten:

"(f) The provisions of this Article shall not apply to purchases of apparatus, supplies, materials, or equipment when performance or price competition for a product are not available; when a needed product is available from only one source of supply; or when standardization or compatibility is the overriding consideration. Notwithstanding any other provision of this section, the governing board of a municipality, county, or other subdivision of the State shall approve ~~purchases made under this exception~~ the purchases listed in the preceding sentence prior to the award of the contract. In the case of purchases by hospitals, in addition to the other exceptions in this subsection, the

provisions of this Article shall not apply when a particular medical item or prosthetic appliance is needed; when a particular product is ordered by an attending physician for his patients; when additional products are needed to complete an ongoing job or task; when products are purchased for 'over-the-counter' resale; when a particular product is needed or desired for experimental, developmental, or research work; or when equipment is already installed, connected, and in service under a lease or other agreement and the governing body of the hospital determines that the equipment should be purchased. The governing body of a hospital, municipality, county or other political subdivision of the State shall keep a record of all purchases made pursuant to this ~~exception.~~ subsection. These records are subject to public inspection."

Section 17. G.S. 143B-283(a)(8) reads as rewritten:

"(8) One who shall, at the time of appointment, be actively employed by, or recently retired from, an industrial manufacturing facility and knowledgeable in ~~in~~ the field of industrial air and water pollution control;".

Section 18. (a) G.S. 143B-289.52(e) reads as rewritten:

"(e) The Commission may adopt rules to implement or comply with a fisheries management plan adopted by the Atlantic States Marine Fisheries Commission or an interstate fisheries management council. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six months of the adoption of a fisheries management plan by the Atlantic States Marine Fisheries ~~Council~~ Commission or an interstate fisheries management council."

(b) If House Bill 1448, 1997 Regular Session becomes law prior to the date this act becomes law and amends G.S. 143B-289.52(e), then this section shall not become effective. If House Bill 1448, 1997 Regular Session becomes law after the date this act becomes law and amends G.S. 143B-289.52(e), then this section of this act is repealed.

Section 19. G.S. 143B-433 reads as rewritten:

"§ 143B-433. Department of Commerce – organization.

The Department of Commerce shall be organized to include:

~~(a)~~ (1) The following agencies:

- ~~(1)a.~~ The North Carolina Alcoholic Beverage Control ~~Commission,~~ Commission.
- ~~(2)b.~~ The North Carolina Utilities ~~Commission,~~ Commission.
- ~~(3)c.~~ The Employment Security ~~Commission,~~ Commission.
- ~~(4)d.~~ The North Carolina Industrial ~~Commission,~~ Commission.
- ~~(5)e.~~ State Banking ~~Commission,~~ Commission.
- ~~(6)f.~~ Savings and Loan Association ~~Division,~~ Division.
- ~~(7)g.~~ The State Savings Institutions ~~Commission,~~ Commission.
- ~~(8)h.~~ Credit Union ~~Commission,~~ Commission.
- ~~(9)i.~~ The North Carolina Milk ~~Commission,~~ Commission.
- ~~(10)j.~~ The North Carolina Mutual Burial Association ~~Commission,~~ Commission.
- ~~(11)k.~~ North Carolina Cemetery ~~Commission,~~ Commission.

- (12)l. The North Carolina Rural Electrification ~~Authority,~~ Authority.
- (13)m. Repealed by Session Laws 1985, c. 757, s. 179(d).
- (14)n. North Carolina Science and Technology Research ~~Center,~~ Center.
- (15)o. The North Carolina State Ports ~~Authority,~~ Authority.
- (16)p. North Carolina National Park, Parkway and Forests Development ~~Council,~~ Council.
- (17)q. Economic Development ~~Board,~~ Board.
- (18)r. Labor Force Development ~~Council,~~ Council.
- (19)s. Energy Policy ~~Council,~~ Council.
- (20)t. Energy ~~Division,~~ Division.
- (21)u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.
- (22)v. Repealed by Session Laws 1993, c. 321, s. 313(b).
- (b)(2) Those agencies which are transferred to the Department of Commerce including the:
 - (1)a. Community Assistance ~~Division,~~ Division.
 - (2)b. Community Development ~~Council,~~ Council.
 - (3)c. Employment and Training ~~Division, and~~ Division.
 - (4)d. Job Training Coordinating ~~Council; and~~ Council.
- (e)(3) Such divisions as may be established pursuant to Article 1 of this Chapter."

Section 20. G.S. 157-35 reads as rewritten:

"§ 157-35. Creation of regional housing authority.

If the board of county commissioners of each of two or more contiguous counties having an aggregate population of more than 60,000 by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties ~~to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties~~ shall (after the commissioners thereof file an application with the Secretary of State as hereinafter provided) thereupon exist for and exercise its powers and other functions in such counties; and thereupon any housing authority created for any of such counties shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided: Provided, that the board of county commissioners shall not adopt a resolution as aforesaid if there is a county housing authority created for such county which has any bonds or notes outstanding unless first, all holders of such bonds and notes consent in writing to the substitution of such regional housing authority in lieu of such county housing authority on all such bonds and notes; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided:

Provided, further, that when the above conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property, real and personal, of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they might have been asserted, enforced, and prosecuted against such county housing authority. When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed in the office provided for the filing of deeds: Provided, that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The board of county commissioners of each of two or more said contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise powers and other functions herein prescribed in such counties, if such board of county commissioners finds (and only if it finds)

- (1) Insanitary or unsafe dwelling accommodations exist in the area of its respective county and/or there is a lack of safe or sanitary dwelling accommodations in the county available for all the inhabitants thereof and
- (2) That a regional housing authority for the proposed region would be a more efficient or economical administrative unit than a housing authority for an area having a smaller population to carry out the purposes of the housing authorities law and any amendments thereto, in such county.

In determining whether dwelling accommodations are unsafe or insanitary, the board of county commissioners shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

If it shall determine that both (1) and (2) of the above enumerated conditions exist, the board of county commissioners shall adopt a resolution so finding (which need not go into any detail other than the mere finding). After the appointment, as hereinafter provided, of the commissioners to act as the regional housing authority, said authority shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital)

- (1) That the boards of county commissioners made the aforesaid determination and that they have been appointed as commissioners;

- (2) The name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Article;
- (3) The term of office of each of the commissioners;
- (4) The name which is proposed for the corporation; and
- (5) The location of the principal office of the proposed corporation.

The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of incorporation pursuant to this Article, under the seal of the State, and shall record the same with the application.

In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have been established in accordance with the provisions of this Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof."

Section 21. Effective July 1, 1997, subsection (d) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(d) This ~~aet~~section applies only to Columbus, Durham, and Rockingham Counties."

Section 22. Effective July 1, 1997, subsection (e) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(e) This ~~aet~~section becomes effective October 1, 1997, and expires June 30, 1998."

Section 23. The prefatory language of Section 6 of S.L. 1997-452 reads as rewritten:

"Section 6. Section 115.6(b) of the Charter of the City of Durham, being Chapter 671 of the 1995-1975 Session Laws, as added by Chapter 476 of the 1989 Session Laws and rewritten by Chapter 992 of the 1991 Session Laws, reads as rewritten:"

Section 24. G.S. 75E-3 reads as rewritten:

"§ 75E-3. Investigative and regulatory powers of the Attorney General.

The Attorney General may conduct such investigations as the Attorney General deems necessary to determine compliance by all persons or entities with the provisions of Articles 9 and 9A of Chapter 55 of the General Statutes. Statutes; and the Attorney General may exempt from the provisions of Article 9 of Chapter 55 of the General Statutes any business combination that is solely an internal corporate restructuring which does not effect any material change in the ultimate ownership of the corporation and does not affect the ongoing applicability of that Article to the corporation or any other entity. In performing any such investigations, the Attorney General shall have all the powers given him by G.S. 75-10. The provisions of G.S. 75-11 and G.S. 75-12 shall apply to this Chapter."

Section 25. (a) G.S. 90-113.38(b) reads as rewritten:

"(b) The fee to obtain a certificate of certification for a clinical addictions specialist pursuant to ~~G.S. 90-113.41A~~ deemed status may not exceed one hundred dollars (\$100.00). The fee to renew a certificate may not exceed fifty dollars (\$50.00). The fee to obtain a certificate of certification for a clinical addictions specialist ~~under G.S. 90-113.40~~ pursuant to all other procedures authorized by this Article may not exceed three hundred twenty-five dollars (\$325.00). The fee to renew the certificate may not exceed one hundred dollars (\$100.00)."

(b) Section 17 of S.L. 1997-492 reads as rewritten:

"Section 17. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the North Carolina Substance Abuse Professional Certification Board (Board) may certify a person as a 'Clinical Addictions Specialist' during a limited period of one year after the effective date of this act upon completion of any prescribed continuing education requirements that are required during the course of this year for renewal of the original certification, payment of the fee as required for renewal of the original certification, payment of the clinical addictions specialist certification fee, and the submission of proof of one of the following to the Board:

- (1) Certification as a substance abuse counselor holding a master's degree with a clinical application in a human services field; the equivalent of two years of full-time post-graduate supervised substance abuse experience; and three letters of reference from certified substance abuse professionals who have master's degrees.
- (2) Certification as a substance abuse counselor with a bachelors degree in a human services field; the equivalent of five years of full-time, post-graduate, supervised substance abuse experience; a passing score on a master's level written examination; and submission of three letters of reference from certified substance abuse professionals who have master's degrees.
- (3) Certification as a clinical supervisor; a master's degree with a clinical application in a human services field; and three letters of reference from certified substance abuse professionals who have master's degrees.
- (4) Certification as a substance abuse counselor; a master's degree with a clinical application in a human services field with a substance abuse

specialty; and three letters of reference from certified substance abuse professionals who have master's degrees.

(5) Certification before July 1, 1994, as an alcohol counselor, a drug and alcohol counselor, or a substance abuse counselor; the equivalent of 10 years of documented full-time substance abuse work experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(6) Certification, licensure, or membership in good standing with a professional discipline that has been granted deemed status under G.S. 90-113.41A, as enacted by Section 11 of this act."

(c) Section 18 of S.L. 1997-492 reads as rewritten:

"Section 18. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the Board may certify an applicant as a 'Clinical Addictions Specialist' during a limited period of three years beginning October 1, 1998, if the applicant completes any prescribed continuing education requirements that are required during the course of these years for renewal of the original certification, pays the fee as required for renewal of the original certification, pays the clinical addictions specialist certification fee, and submits proof to the Board that the applicant: (i) has been certified as a substance abuse counselor; (ii) has the equivalent of 10 years of supervised, full-time, substance abuse counseling experience; (iii) has passed a master's level oral and written examination and; (iv) submits three letters of reference from certified substance abuse professionals who hold master's degrees."

(d) This section is effective on and after October 1, 1997.

Section 26. G.S. 95-97 is repealed.

Section 27. G.S. 95-128(3) and (4) read as rewritten:

"(3) Employees whose safety and health are subject to protection under the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801) and the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725), or ~~the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;

(4) Railroad employees whose safety and health are subject to protection under ~~the Federal Safety Appliance Act (45 U.S.C. 1-50), or the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;".

Section 28. G.S. 95-174(k) reads as rewritten:

"(k) 'Hazardous chemical' shall mean any element, chemical compound or mixture of elements and/or compounds which is a physical hazard or health hazard as defined in subsection (c) of the ~~NCOSHA-OSHNC~~ Standard or a hazardous substance as defined in ~~subsection (d)(3) of the NCOSHA Standard.~~ standards adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7)."

Section 29. G.S. 95-174(p) reads as rewritten:

"(p) 'Material Safety Data Sheets' or 'MSDS' shall mean chemical information sheets drawn up in conformity to standards for material safety data sheets adopted by

the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~in 13 North Carolina Administrative Code 7C .0101(a)(99) (hereinafter designated as 13 N.C.A.C. 7C .0101(a)(99)).~~"

Section 30. G.S. 95-174(r) reads as rewritten:

"(r) '~~NCOSHA-OSHNC~~ Standard' shall mean the ~~currently adopted current~~ Hazard Communication Standard adopted by the Occupational Safety and Health Division of North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~13 North Carolina Administrative Code 7C .0101(a)(99), as amended.~~"

Section 31. G.S. 95-198(b) reads as rewritten:

"(b) In nonemergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under this section, to a ~~health professional, responsible party~~, as defined in ~~13 N.C.A.C. 7C .0101(a)(99), the standards adopted in Title 13, Subchapter 7F of the North Carolina Administrative Code (13 NCAC 7F),~~ providing medical or other occupational health services to exposed persons if the request is in writing and states the medical need for the information. The employer may require that the ~~health care provider responsible party~~ sign a confidentiality agreement prior to release of the information. The parties are not precluded from pursuing noncontractual remedies to the extent permitted by law."

Section 31.1. (a) Article 1 of Chapter 97 of the General Statutes is amended by adding a new section to read:

"§ 97-101.1. Commission may issue writs of habeas corpus.

The Industrial Commission may issue a writ of habeas corpus ad testificandum under Article 8 of Chapter 17 of the General Statutes although it is not a court of record."

(b) G.S. 143-296 reads as rewritten:

"§ 143-296. Powers of Industrial Commission; deputies.

The members of the Industrial Commission, or a deputy thereof, shall have power to issue subpoenas, administer oaths, conduct hearings, take evidence, enter orders, opinions, and awards based thereon, ~~and punish for contempt, contempt, and issue writs of habeas corpus ad testificandum pursuant to G.S. 97-101.1.~~ The Industrial Commission is authorized to appoint deputies and clerical assistants to carry out the purpose and intent of this Article, and such deputy or deputies are hereby vested with the same power and authority to hear and determine tort claims against State departments, institutions, and agencies as is by this Article vested in the members of the Industrial Commission. Such deputy or deputies shall also have and are hereby vested with the same power and authority to hear and determine cases arising under the Workers' Compensation Act when assigned to do so by the Industrial Commission. The Commission may order parties to participate in mediation, under rules substantially similar to those approved by the Supreme Court for use in the Superior Court division, except the Commission shall determine the manner in which payment of the costs of the mediated settlement conference is assessed."

Section 32. (a) G.S. 105-116(a), as amended by S.L. 1998-22, reads as rewritten:

"(a) Tax. – An annual franchise or privilege tax is imposed on the following:

- (1) An electric power company engaged in the business of furnishing electricity, electric lights, current, or power.
- (2) Repealed by S.L. 1998-22, s.2.
- (2a) Repealed by S.L. 1998-22, s.2.
- (3) A water company engaged in owning or operating a water system subject to regulation by the North Carolina Utilities Commission.
- (4) A public sewerage company engaged in owning or operating a public sewerage system.

The tax on an electric power company is three and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the business of furnishing electricity, electric lights, current, or power. ~~The tax on a regional natural gas district is three and twenty-two hundredths percent (3.22%) of the district's taxable gross receipts from the furnishing of piped natural gas.~~ The tax on a water company is four percent (4%) of the company's taxable gross receipts from owning or operating a water system subject to regulation by the North Carolina Utilities Commission. The tax on a public sewerage company is six percent (6%) of the company's taxable gross receipts from owning or operating a public sewerage company. A company's taxable gross receipts are its gross receipts from business inside the State less the amount of gross receipts from sales reported under subdivision (b)(2). A company that engages in more than one business taxed under this section shall pay tax on each business. A company is allowed a credit against the tax imposed by this section for the company's investments in certain entities in accordance with Division V of Article 4 of this Chapter."

(b) G.S. 105-187.44(a), as enacted by S.L. 1998-22, reads as rewritten:

"(a) City Information. – A monthly return filed under this Article must indicate the amount of tax attributable to the following: ~~if a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city:~~

- (1) Piped natural gas delivered during the month to sales or transportation customers in each city in the State.
- (2) Piped natural gas received during the month in each city in the State by persons who have direct access to an interstate gas pipeline and who receive the gas for their own consumption.

If a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city."

(c) This section becomes effective July 1, 1999.

Section 33. G.S. 130A-24(b) reads as rewritten:

"(b) Appeals concerning the enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with this subsection and subsections (b), (c) and (d) of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain

the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken."

Section 34. G.S. 143B-475.1 is rewritten by adding a new subsection to read:

"(f) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, or deferred prosecution, related to community service. The community service staff shall give notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the address shown on the records of the community service staff. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the Division of Motor Vehicles to revoke any drivers license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation."

Section 35. (a) G.S. 146-12(c) reads as rewritten:

"(c) Voluntary Easement Applications for Existing Structures. – Riparian or littoral property owners of existing structures may voluntarily obtain an easement under subsection (b) of this section in accordance with the procedures set forth in this section. For purposes of this section, the term 'existing structures' means all presently existing piers, docks, marinas, wharves, and other structures located over or upon State-owned lands covered by navigable waters. Applications for voluntary easements shall be received by the State Property Office ~~within 36 months of the effective date of this section, no later than 1 October 2001.~~"

(b) G.S. 146-12(d) reads as rewritten:

"(d) Notification of Availability of Voluntary Easements. – The State Property Office shall provide public notice of the availability of voluntary easements by placing an advertisement in one newspaper of general circulation in each of the coastal counties identified under G.S. 113A-103(2) at least once every six ~~months during the 36-month period, months.~~ The final notice shall be placed ~~at least 30 days prior to the expiration of the 36-month period, no later than 1 September 2001.~~"

(c) This section is effective retroactively to August 31, 1998, and applies to applications for voluntary easements received by the State Property Office on or after that date.

Section 36. (a) G.S. 163-323(e) reads as rewritten:

"(e) Candidacy for More Than One Office Prohibited. – No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this ~~section~~ section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not later be filed for any other office or group of offices under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (c) of this section."

(b) This section is effective on and after February 1, 1999.

Section 37. The prefatory language of Section 1 of S.L. 1998-37 reads as rewritten:

"Section 1. G.S. 153A-335, as it applies to Stanly County under Chapter 930 of the 1987 Session Laws, as amended by Chapter 504 of the 1991 Session Laws and Chapter 574 of the 1993 Session Laws, reads as rewritten:"

Section 38. Section 5.1 of the Charter of the Town of Forest Hills, being Section 1 of S.L. 1997-345, reads as rewritten:

"Section 5.1. **Mayor-Council Plan.** The Village of Forest Hills operates under the Mayor-Council Plan as provided by Part 3 of Article 7 of Chapter ~~160B~~ 160A of the General Statutes. The Mayor shall vote only in those cases necessary to break a tie."

Section 39. The prefatory language of Section 1 of S.L. 1998-72 reads as rewritten:

"Section 1. G.S. 115D-15 reads ~~are~~ as rewritten:"

Section 40. Reserved.

Section 41. G.S. 89C-13(b)(1)d., as amended by S.L. 1998-118, reads as rewritten:

"d. Graduation from a high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of seven years of progressive practical experience, six years of which shall have been under a practicing licensed land surveyor, and satisfactorily passing any oral and written examinations required by the Board, all of which shall determine and indicate that the candidate is competent to practice land surveying. The applicant may be qualified by the Board to take the first examination (Surveying Fundamentals) upon graduation from high school or the completion of a high school equivalency certificate and successfully completing ~~six~~ five years of progressive practice experience, ~~five~~ four of which shall have been under a practicing licensed land surveyor. ~~The applicant may apply to take the second examination (Principles and Practice of Land Surveying) upon passing the first examination and successfully completing four years of~~

~~progressive practical experience, two of which shall have been under a practicing licensed land surveyor."~~

Section 42. G.S. 105-130.17(f) is repealed.

Section 43. G.S. 105-122(a) reads as rewritten:

"(a) Every corporation, domestic and foreign, incorporated, or, by an act, domesticated under the laws of this State or doing business in this State, except as otherwise provided in this Article or schedule, shall, on or before the fifteenth day of the third month following the end of its income year, annually, make and deliver to the Secretary of Revenue in such form as he may prescribe a full, accurate and complete report and statement signed by either its president, vice-president, treasurer, assistant treasurer, secretary or assistant secretary, containing such facts and information as may be required by the Secretary of Revenue as shown by the books and records of the corporation at the close of such income year.

There shall be annexed to the return required by this subsection the affirmation of the officer signing the ~~return in the following form: "Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this return, including any accompanying schedules and statements, is true and complete. If prepared by a person other than taxpayer, his affirmation is based on all information of which he has any knowledge."~~return."

Section 44. G.S. 105-155(c) is repealed.

Section 45. G.S. 120-123(55) and (65) are repealed.

Section 46. (a) G.S. 130A-335(f1), as enacted by Section 1 of S.L. 1998-126, is recodified as G.S. 130A-335(f2).

(b) This section is effective retroactively to August 28, 1998.

Section 47. G.S. 153A-15, as amended by S.L. 1998-110, reads as rewritten:

"§ 153A-15. Consent of board of commissioners necessary in certain counties before land may be condemned or acquired by a unit of local government outside the county.

(a) Notwithstanding the provisions of ~~G.S. 153A-159, Article 11 of Chapter 160A of the General Statutes, G.S. 130-130, Chapter 40-40A of the General Statutes, Statutes~~ or any other general law or local act conferring the power of eminent domain, before final judgment may be entered in any action of condemnation initiated ~~(or in the case of Article 11 of Chapter 160A, before a final condemnation resolution is adopted)~~ by a county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county, whereby the condemnor seeks to acquire property located in the other county, the condemnor shall furnish proof that the county board of commissioners of the county where the land is located has consented to the taking.

(b) Notwithstanding the provisions of G.S. 153A-158, ~~Chapter 160A of the General Statutes 160A-240.1, Article 12 of Chapter 130 of the General Statutes, 130A-55,~~ or any other general law or local act conferring the power to acquire real property, before any county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county acquires any real property located

in the other county by exchange, purchase or lease, it must have the approval of the county board of commissioners of the county where the land is located.

(c) This section applies to Alamance, Alleghany, Anson, Ashe, Bertie, Bladen, Brunswick, Burke, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Montgomery, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake, Warren, Watauga, Wilkes, and Yancey ~~counties~~ Counties only.

(d) This section does not apply as to ~~any~~:

(1) ~~Condemnation; or~~

(2) ~~Acquisition~~

any condemnation or acquisition of real property or an interest in real property by a city where the property to be condemned or acquired is within the corporate limits of that city."

Section 48. G.S. 158-35(a) reads as rewritten:

"(a) Commission Membership. – The governing body of the Zone is the Global TransPark Development Commission. The members of the Commission must be residents of the Zone and shall be appointed as follows:

- (1) The board of commissioners of each county participating in the Zone shall appoint three voting members, one of whom shall be a minority person as defined in ~~G.S. 143-128(e)~~ G.S. 143-128(f)(2) and one of whom may be a member of the board of commissioners.
- (2) The Authority shall appoint at least three but no more than seven voting members. By the appointment of these members, the Authority shall ensure that the voting membership of the Commission includes at least seven women and seven members of a racial minority described in ~~G.S. 143-128(e)~~ G.S. 143-128(f)(2). The Authority shall appoint the fewest number of members necessary to achieve these minimums.
- (3) Four nonvoting members shall be appointed as follows:
 - a. One appointed by the Chancellor of East Carolina University to represent the University.
 - b. One appointed by a majority vote of the presidents of the community colleges located in the Zone, to represent the community colleges.
 - c. One appointed by the chair of the State Ports Authority, to represent the sea ports of the State.
 - d. One member of the board of directors of the Global TransPark Foundation, Inc., appointed by that board."

Section 49. The Revisor of Statutes shall codify the first paragraph of Section 4 of S.L. 1997-129, as amended by Section 10 of S.L. 1997-257, as G.S. 75A-14.1, "Lake Norman no-wake zone."

Section 50. Section 2 of S.L. 1998-113 is amended by deleting "1997-98", and substituting "1998-99".

Section 51. Section 2 of Chapter 214 of the 1991 Session Laws is repealed.

Section 52. Section 2 of S.L. 1998-199 reads as rewritten:

"Section 2. The Revisor of Statutes shall cause to be printed with this act all relevant portions of the official comments to the ~~North Carolina~~ Uniform Planned Community Act and all explanatory comments of the drafters of this act, as the Revisor deems appropriate."

Section 53. (a) The following changes are made to S.L. 1998-198:

(1) G.S. 122C-211(f), as enacted by Section 6 of that act, is recodified as G.S. 122C-211(f1).

(2) G.S. 122C-211(a), as amended by S.L. 1998-47, reads as rewritten:

"(a) Except as provided in subsections (b) through ~~(f)~~ (f1) of this section, any individual, including a parent in a family unit, in need of treatment for mental illness or substance abuse may seek voluntary admission at any facility by presenting himself for evaluation to the facility. No physician's statement is necessary, but a written application for evaluation or admission, signed by the individual seeking admission, is required. The application form shall be available at all times at all facilities. However, no one shall be denied admission because application forms are not available. An evaluation shall determine whether the individual is in need of care, treatment, habilitation or rehabilitation for mental illness or substance abuse or further evaluation by the facility. Information provided by family members regarding the individual's need for treatment shall be reviewed in the evaluation. An individual may not be accepted as a client if the facility determines that the individual does not need or cannot benefit from the care, treatment, habilitation, or rehabilitation available and that the individual is not in need of further evaluation by the facility. The facility shall give to an individual who is denied admission a referral to another facility or facilities that may be able to provide the treatment needed by the client."

(3) Section 7 of that act reads as rewritten:

"Section 7. This act becomes effective ~~October 1, 1998~~, November 1, 1998."

(4) The prefatory language of Section 5 of that act reads as rewritten:

"Section 5. ~~G.S. 122C-57(d), (e), and (f) are amended as follows: G.S. 122C-57(d) through (f) read as rewritten:~~"

(5) The Revisor of Statutes may delete from G.S. 122C-77, as rewritten by Section 2 of that act, any lines on the form to be filled in where it was clearly intended that those lines be deleted but which do not appear to be stricken through because of formatting.

(b) This section becomes effective September 30, 1998.

Section 54. Section 6 of S.L. 1998-135 reads as rewritten:

"Section 6. This act becomes effective August 15, 1998, and applies to State employee grievances arising on or after that date and to cases pending on that date in the

Office of Administrative Hearings or before the State Personnel Commission or on appeal from a decision of the Commission. This act also applies to cases that were voluntarily dismissed without prejudice before the Office of Administrative Hearings before August 15, 1998, and that are refiled prior to December 1, 1998, provided that the case is not otherwise barred from being refiled."

Section 55. (a) Section 11(a) of S.L. 1998-55 reads as rewritten:

"Section 11(a). The Piedmont Triad ~~International~~ Airport Authority may contract for design and construction of an air freight distribution facility on Airport property without being subject to the requirements of Article 8 of Chapter 143 of the General Statutes."

(b) Section 11(b) of S.L. 1998-55 reads as rewritten:

"Section 11(b). The Piedmont Triad ~~International~~ Airport Authority may contract for supplies, materials, equipment, and contractual services of the Authority related to an air freight distribution facility on Airport property without being subject to the requirements of ~~Article 3~~ Articles 3 or 8 of Chapter 143 of the General Statutes."

Section 56. G.S. 58-65-133(d), as enacted by S.L. 1998-3, reads as rewritten:

"(d) Advisory Committee. – An advisory committee shall be formed to (i) develop, subject to the approval of the Attorney General, the criteria for selection of the Foundation's initial board of directors and (ii) nominate candidates for the initial board of directors. The advisory committee shall be comprised of the following 11 members: three representatives of the business community selected by North Carolina Citizens for Business and Industry, three representatives of the public and private medical school community selected by The University of North Carolina Board of Governors, three representatives of private foundations and other nonprofit organizations selected by the North Carolina Center for Nonprofits, a representative of ~~the North Carolina Association of Hospitals and Health Care Networks, NCHA, Inc.,~~ and a representative of the North Carolina Medical Society. After receiving a copy of the proposed plan of conversion, the Attorney General shall immediately notify these organizations, and the advisory committee shall be constituted within 45 days thereafter.

The advisory committee's criteria shall ensure an open recruitment process for the directors. The advisory committee shall nominate 22 residents of North Carolina for the 11 positions to be filled by the Attorney General. The Attorney General shall retain an independent executive recruiting firm or firms to assist the advisory committee in its work."

Section 57. The following changes are made to S.L. 1998-202:

(1) G.S. 7B-2514(a), as enacted by that act, reads as rewritten:

"(a) In determining whether a juvenile should be released before the juvenile's 18th birthday, the Office shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Office does not intend to release the juvenile prior to the juvenile's eighteenth birthday, or if the Office determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2512(a), the Office shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's eighteenth birthday or the end of the maximum commitment period, of the

additional specific commitment period proposed by the Office, the basis for extending the commitment period, and the plan for future care or treatment."

(2) The prefatory language of Section 2(b) of that act reads as rewritten:

"(b) ~~G.S. 147-33.34(5)~~, G.S. 147-33.34(a)(5), as enacted by Section 1 of this act, reads as rewritten:".

(3) Section 2(f) of that act reads as rewritten:

"(f) Effective July 1, 1999, the Revisor of Statutes shall substitute the term 'post-release supervision' for the term '~~aftercare~~' and '~~aftercare~~,' the term 'detention facility' for the terms 'detention home' and '~~regional detention home~~' 'regional detention home,' and the term 'detention facilities' for the term 'regional detention homes' everywhere those terms appear in Article 3C of Chapter 147 of the General Statutes, as enacted in Section 1 of this act.

Section 58. (a) Article 47 of Chapter 58 of the General Statutes is amended by adding the following new Part:

"Part 3. Third-Party Administrators for Groups.

"§ 58-47-210. Definitions.

As used in this Part:

- (1) 'Board' means the board of trustees or other governing body of a group.
- (2) 'Control' means 'control' as defined in G.S. 58-19-5(2).
- (3) 'GAAP financial statement' means a financial statement as defined by generally accepted accounting principles.
- (4) 'Group' means a group of employers that is licensed under Part 1 of this Article.
- (5) 'Hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a person is insolvent or, although not yet financially impaired or insolvent, is unlikely to be able to meet obligations with respect to known and reasonably anticipated obligations in the normal course of business.
- (6) 'Member' means an employer that participates in a group.
- (7) 'Third-party administrator' or 'TPA' means a person engaged by a board to execute the policies established by the board and to provide day-to-day management of the group. 'Third-Party Administrator' and 'TPA' does not mean:
 - a. An employer acting on behalf of its employees or the employees of one or more of its affiliates.
 - b. An insurer that is licensed under this Chapter or that is acting as an insurer with respect to a policy lawfully issued and delivered by it and under the laws of a state in which the insurer is licensed to write insurance.
 - c. An agent or broker who is licensed by the Commissioner under Article 33 of this Chapter whose activities are limited exclusively to the sale of insurance.

- d. An adjuster licensed by the Commissioner under Article 33 of this Chapter whose activities are limited to adjustment of claims.
- e. An individual who is an officer, a member, or an employee of a board.

"§ 58-47-215. TPA authority; license, qualification for approval.

(a) No person shall act as, offer to act as, or hold himself or herself out as a TPA with respect to risks located in this State for a group unless that person is licensed by the Commissioner under this Part.

(b) An applicant for a license shall file with the Commissioner the information required by subsection (c) of this section on a form prescribed by the Commissioner at least 90 days before the proposed licensing date. No application is complete until the Commissioner has received all required information.

(c) The following information shall be included in the license application:

- (1) All organizational documents of the TPA, including articles of incorporation, articles of association, a partnership agreement, a trade name certificate, or a trust agreement, any other applicable documents, and all amendments to these documents;
- (2) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the TPA;
- (3) The names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of affairs of the TPA, including (i) all members of the board of directors, executive committee, or other governing board or committee, (ii) the principal officers in the case of a corporation or the partners or members in the case of a partnership or association, (iii) all shareholders holding directly or indirectly ten percent (10%) or more of the voting securities of the TPA, and (iv) any other person who exercises control or influence over the affairs of the TPA;
- (4) The annual audited GAAP financial statements for the two most recent years that demonstrate the applicant is solvent and an ongoing concern and any other information the Commissioner may require in order to review the current financial condition of the applicant;
- (5) A general description of the business operations, including information on staffing levels and activities proposed in this State and nationwide. The description shall provide details setting forth the TPA's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, record keeping, and underwriting;
- (6) The annual report of the manner and amount of all charges, fees, and direct and indirect compensation received from the group as specified in the service agreement;

- (7) All written agreements or contracts with groups; and
- (8) Any other pertinent information, including evidence of compliance with other provisions of this Article, as required by the Commissioner.

(d) The information required by subsection (c) of this section, including any trade secrets, shall be kept confidential; provided that the Commissioner may use that information in any judicial or administrative proceeding instituted against the TPA.

(e) TPA licenses shall be renewed annually and applications for renewals of licenses shall include or be accompanied by any changes in the information required by subsection (c) of this section.

(f) A TPA shall notify the Commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a license in this State, 30 business days before the change. Failure of the Commissioner to disapprove any material changes within 30 days after the changes have been filed with the Commissioner constitutes the Commissioner's approval of the filed changes.

(g) After initial licensing, a TPA shall file with the Commissioner all contracts with a group 60 days before the effective date of the contract.

"§ 58-47-220. TPA license; termination; revocation; restrictions.

(a) The Commissioner may refuse to issue a license if the Commissioner determines that any of the provisions of this section apply to the TPA, or to any individual responsible for the conduct of affairs of the TPA.

(b) The Commissioner shall suspend or revoke automatically the license of a TPA and a request for a hearing shall not stay the effect of the revocation, suspension, or nonrenewal if the Commissioner finds that any of the following apply to the TPA:

- (1) The TPA is using methods or practices in the conduct of its business that render its further transaction of business in this State hazardous or injurious to insured persons or the public;
- (2) The TPA has failed to pay any judgment rendered against it in this State within 60 days after the judgment has become final;
- (3) The TPA has refused to be examined or to produce its accounts, records, and files for examination, or any of its officers have refused to give information with respect to its affairs or have refused to perform any other legal obligation as to that examination, when required by the Commissioner;
- (4) The TPA has, without just cause, refused to pay proper claims or perform services arising under its contract, has caused covered members to accept less than the amount due them, or has caused covered members to employ attorneys or bring suit against the TPA to secure full payment or settlement of the claims;
- (5) The TPA is an affiliate of or under the same general management, interlocking directorate, or ownership as another TPA or group that unlawfully transacts business in this State;

- (6) The TPA, or any principal or affiliate of the TPA, has been convicted of or has entered a plea of guilty or nolo contendere to a felony without regard to whether judgment was withheld;
- (7) The TPA or an affiliate is under revocation, suspension, or nonrenewal in another state;
- (8) The TPA is in hazardous financial condition;
- (9) The TPA has filed for protection under the United States Bankruptcy Code or any state receivership law;
- (10) The financial condition or business practices of the TPA otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this State; or
- (11) The TPA is found to be in violation of Article 63 of this Chapter.

(c) The Commissioner may, after notice and opportunity for hearing, suspend or revoke the license of a TPA if the Commissioner finds that any of the following apply to the TPA:

- (1) The TPA has violated a rule or an order of the Commissioner or any provision of this Chapter or Chapter 97 of the General Statutes;
or
- (2) The TPA at any time fails to meet any qualification for which issuance of the license could have been refused had the failure then existed and been known to the Commissioner at the time of the application.

(d) If the Commissioner determines that a TPA or any other person has not materially complied with this Article or with any rule adopted or order issued under this Article, after notice and opportunity to be heard, the Commissioner may order:

- (1) For each separate violation, a civil penalty pursuant to G.S. 58-2-70(d); or
- (2) Revocation, suspension, or nonrenewal of the person's license.

(e) If the Commissioner finds that, because of a material noncompliance, a group has suffered any loss or damage, the Commissioner may maintain a civil action brought by or on behalf of the group and its policyholders and creditors for recovery of compensatory damages for the benefit of the group and its policyholders and creditors or for other appropriate relief.

(f) Nothing in this Article affects the Commissioner's right to impose any other penalties provided for in this Chapter. Nothing in this Article limits or restricts the rights of policyholders, claimants, and creditors.

(g) If an order of rehabilitation or liquidation of the group has been entered under Article 30 of this Chapter, and the receiver appointed under that order determines that the TPA or any other person has not materially complied with this section, or any order or rule adopted thereunder, and the group suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the group."

(b) This section becomes effective January 1, 2000.

Section 59. Section 2 of S.L. 1998-121 reads as rewritten:

"Section 2. ~~Part 2 of Division II of Article 5 of Chapter 105 of the General Statutes G.S. 105-164.5~~ is repealed."

Section 60. If ratified Senate Bill 882, 1997 Regular Session, and House Bill 926, 1997 Regular Session both become law, then Section 90 of ratified Senate Bill 882, 1997 Regular Session is repealed.

Section 61. G.S. 1A-1, Rule 9(j), reads as rewritten:

"(j) Medical malpractice. – Any complaint alleging medical malpractice by a health care provider as defined in G.S. 90-21.11 in failing to comply with the applicable standard of care under G.S. 90-21.12 shall be dismissed unless:

- (1) The pleading specifically asserts that the medical care has been reviewed by a person who is reasonably expected to qualify as an expert witness under Rule 702 of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care;
- (2) The pleading specifically asserts that the medical care has been reviewed by a person that the complainant will seek to have qualified as an expert witness by motion under Rule 702(e) of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care, and the motion is filed with the complaint; or
- (3) The pleading alleges facts establishing negligence under the existing common-law doctrine of *res ipsa loquitur*.

Upon motion by the complainant prior to the expiration of the applicable statute of limitations, a resident judge of the superior court of the county in which the cause of action arose may allow a motion to extend the statute of limitations for a period not to exceed 120 days to file a complaint in a medical malpractice action in order to comply with this Rule, upon a determination that good cause exists for the granting of the motion and that the ends of justice would be served by an extension. The plaintiff shall provide, at the request of the defendant, proof of compliance with this subsection through up to ten written interrogatories, the answers to which shall be verified by the expert required under this subsection. These interrogatories do not count against the interrogatory limit under Rule 33."

Section 62. (a) G.S. 20-28.3(h), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(h) Insurance Proceeds. – In the event a motor vehicle is damaged incident to the conduct of the defendant which gave rise to the defendant's arrest and seizure of the motor vehicle pursuant to this section, the county board of education, or its authorized designee, is authorized to negotiate the county board of education's interest with the insurance company and to compromise and accept settlement of any claim for damages. Property insurance proceeds accruing to the defendant, or other owner of the seized motor vehicle, shall be paid by the responsible insurance company directly to the clerk of superior court in the county where the motor vehicle driver was charged. If the motor vehicle is declared a total loss by the insurance company ~~responsible for~~ liable for the damages to the motor vehicle, the clerk of superior court, upon application of the

county board of education, shall enter an order that the motor vehicle be released to the insurance company upon payment into the court of all insurance proceeds for damage to the motor vehicle after payment of towing and storage costs and all valid liens. The clerk of superior court shall provide the Division with a certified copy of the order entered pursuant to this subsection, and the Division shall transfer title to the insurance company or to such other person or entity as may be designated by the insurance company. Insurance proceeds paid to the clerk of court pursuant to this subsection shall be subject to forfeiture pursuant to G.S. 20-28.5 and shall be disbursed pursuant to further orders of the court. An affected motor vehicle owner or lienholder who objects to any agreed upon settlement under this subsection may file an independent claim with the insurance company for any additional monies believed owed. Notwithstanding any other provisions in this Chapter, nothing in this section or G.S. 20-28.2 shall require an insurance company to make payments in excess of those required pursuant to its policy of insurance on the seized motor vehicle."

(b) G.S. 20-28.3(i), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(i) Expedited Sale of Seized Motor Vehicles in Certain Cases. – In order to avoid additional liability for towing and storage costs pending resolution of the criminal proceedings of the defendant, the county board of education may, after expiration of 90 days from the date of seizure, sell any motor vehicle having a fair market value of one thousand five hundred dollars (\$1,500) or less. The county board of education may also sell a motor vehicle, regardless of the fair market value, any time the outstanding towing and storage costs exceed eighty-five percent (85%) of the fair market value of the vehicle, or with the consent of all the motor vehicle owners. Any sale conducted pursuant to this subsection shall ~~take place upon not less than 10 days' prior notice to the motor vehicle owners and lienholders,~~ be conducted in accordance with the provisions of G.S. 20-28.5(a), and the proceeds of the sale, after the payment of outstanding towing and storage costs, costs or reimbursement of towing and storage costs paid by a person other than the defendant, shall be deposited with the clerk of superior court. If an order of forfeiture is entered by the court, the court shall order the proceeds held by the clerk to be disbursed as provided in G.S. 20-28.5(b). If the court determines that the motor vehicle is not subject to forfeiture, the court shall order the proceeds held by the clerk to be disbursed first to pay the sale, towing, and storage costs, second to pay outstanding liens on the motor vehicle, and the balance to be paid to the motor vehicle owners."

(c) G.S. 20-28.3(m), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(m) Trial Priority. – District court trials of impaired driving offenses involving forfeitures of motor vehicles pursuant to G.S. 20-28.2 shall be scheduled on the arresting officer's next court date or within 30 days of the offense, whichever comes first.

Once scheduled, the case shall not be continued unless all of the following conditions are met:

- (1) A written motion for continuance is filed with notice given to the opposing party prior to the motion being heard.
- (2) The judge makes a finding of a 'compelling reason' for the continuance.
- (3) The motion and finding are attached to the court case record.

Upon a determination of guilt, the issue of vehicle forfeiture shall be heard by the judge immediately, or as soon thereafter as feasible, and the judge shall issue the appropriate orders pursuant to G.S. 20-28.2(d).

Should a defendant appeal the conviction to superior court, any party ~~may file a motion for review to consider whether the motor vehicle may be released pursuant to G.S. 20-28.2(e) or (f) or G.S. 20-28.3(e), (e1), or (e3).~~ who has not previously been heard on a petition for pretrial release under subsections (e1) or (e3) of this section or any party whose motor vehicle has not been the subject of a forfeiture hearing held pursuant to G.S. 20-28.2(d) may be heard on a petition for pretrial release pursuant to subsections (e1) or (e3) of this section. The provisions of subsection (e) of this section shall also apply to seized motor vehicles pending trial in superior court. Where a motor vehicle was released pursuant to subsection (e) of this section pending trial in district court, the release of the motor vehicle continues, and the terms and conditions of the original bond remain the same as those required for the initial release of the motor vehicle under subsection (e) of this section, pending the resolution of the underlying offense involving impaired driving in superior court.

(d) G.S. 20-28.5(a), as amended by Section 5 of S.L. 1998-182, reads as rewritten:

"(a) Sale. – A motor vehicle ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or (4), subject to the notice requirements of this subsection, and shall be conducted by the county board of education or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be ~~sold~~ sold, at the address shown by the records of the Division and at any other address of the motor vehicle owner as may be found in the criminal file in which the forfeiture was ordered. Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the Division. Notices required to be given under this subsection shall be mailed at least ~~14~~ 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than the towing and storage fees. The county board of education, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf."

(e) G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable Accident. – An accident or collision involving a motor vehicle that results in either of the following:

- a. Death or injury of a human being.
- b. Total property damage of one thousand dollars (\$1,000) or ~~more.~~ more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

(f) Subsections (a), (c), and (e) of this section become effective December 1, 1998. Subsections (b) and (d) of this section are effective on and after October 15, 1998.

Section 63. Section 6 of S.L. 1998-169 reads as rewritten:

"Section 6. The Board of Transportation, with the assistance of the Secretary and the Department of Transportation, shall develop a plan to establish Rural Transportation Planning Organizations (RPOs) as a counterpart to the existing Metropolitan Planning Organizations (MPOs). The Board or its designee shall report its plan to establish these organizations to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations on or before ~~December 31, 1998.~~ June 30, 1999."

Section 64. Section 12.5 of S.L. 1997-458 reads as rewritten:

"Section 12.5. The Utilities Commission, the Local Government Commission, and the Environmental Management Commission, with the assistance of other State agencies, shall jointly study issues relating to ~~publically~~-publicly owned treatment works that persistently fail to comply with Article 21 of Chapter 143 of the General Statutes, rules adopted pursuant to that Article, or other federal and State laws, regulations, and rules for the protection of public health and the environment. The Commissions shall make a specific finding as to whether a State agency should assume control of a persistently noncomplying treatment works and, if so, how the State agency would assume control and operate the treatment works. The Utilities Commission, the Local Government Commission, and the Environmental Management Commission shall jointly present their findings and recommendations, including any legislative proposals, to the 1998 Regular Session of the 1997 General Assembly."

Section 65. Senate Bill 1366 of the 1997 General Assembly, as enacted, is amended by rewriting the line above the heading to Section 17.22 to read:

"Requested by: Senators Gulley, Rand, Wellons, Representatives Justus, Kiser, Sexton."

Section 66. Section 20 of S.L. 1998-150 reads as rewritten:

"Section 20. This act becomes effective November 1, 1998, and applies to annexations for which the resolution of intent is adopted on or after that date. Sections 2 and 3 shall not apply to any incorporation proposal originally presented to the Joint Legislative Commission on Municipal Incorporations prior to the effective date. As to any incorporation petition submitted after October 31, 1998 but before the deadline set by G.S. 120-163(e) for the 1999 Regular Session, which did not meet the requirement of Section 3 of this act, the petition may be amended by a majority of the members of the interim board named in the petition so as to comply. The amendment may be made either before or after the petition is submitted."

Section 67. Effective January 1, 1999, through June 30, 2003, G.S. 135-3(8)c., as rewritten by Section 28.24(a) of Senate Bill 1366 of the 1997 General Assembly, as enacted, reads as rewritten:

- "c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed, or otherwise engaged to perform services, by an employer participating in the Retirement System on a part-time, temporary, interim, or on a fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars (\$20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, G.S. 135-3(8)c., who has been retired at least 12 months and has not been employed in any capacity, except as a substitute teacher, with a public school for at least 12 months, shall not include earnings while:

1. The beneficiary is employed to teach on a substitute or interim basis, and not on a permanent basis, in a public school;
2. The beneficiary is employed to teach in the teacher's area of certification in a low-performing school. As used in this sub-subdivision, a low-performing school is a public elementary or middle school at which forty-eight percent (48%) or more of the students were below grade level during either of the prior two school years or a public high school identified by the State Board of Education as low-performing. If the designation of low-performing is removed while the beneficiary is employed to teach at the school, the provisions of this sub-subdivision apply for the next two school years after the designation is removed; or

3. The beneficiary is employed to teach in a public school in the teacher's area of certification in a geographical area in which the State Board of Education determines that there is a shortage of teachers in the beneficiary's area of certification.

The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit under the provisions of this sub-subdivision and as a ~~probationary~~ retired teacher as the term is defined under the provisions of ~~G.S. 115C-325(a)(5)~~. G.S. 115C-325-(a)(5a).

Beneficiaries employed under this sub-subdivision are not entitled to any benefits otherwise provided under this Chapter as a result of this period of employment."

Section 67.1. (a) G.S. 115C-325(a)(5a), as enacted by Senate Bill 1366 of the 1997 General Assembly, reads as rewritten:

"(5a) 'Retired teacher' means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who has been retired at least 12 months, has not been employed in any capacity, other than as a substitute teacher, with a local board of education for at least 12 months, is determined by a local board of education to have had satisfactory performance during the last year of employment by a local board of education, and who is employed to teach as provided in ~~G.S. 135-3(8)~~^{c1}. G.S. 135-3(8)c. A retired teacher shall be treated the same as a probationary teacher except that a retired teacher is not eligible for career status."

(b) This section becomes effective January 1, 1999, and expires June 30, 2003.

Section 67.2. (a) There is appropriated out of departmental receipts available to the Office of the State Treasurer the sum of one million three hundred four thousand two hundred fifty-three dollars (\$1,304,253) for the 1998-99 fiscal year. These funds shall be used to support 10 additional positions in the Retirement Division to help the Department meet the increasing demand for services placed upon the Division from a rapidly growing, active and retired, membership.

(b) There is appropriated out of departmental receipts available to the Office of the State Treasurer the sum of fifty-two thousand four hundred twenty-six dollars (\$52,426) for the 1998-99 fiscal year. These funds shall be used to support one supervisory position in the Escheats Division to oversee the daily processing of tangible and intangible property and cash receipts.

(c) This section is effective July 1, 1998.

Section 67.3. (a) G.S. 7A-133(a), as rewritten by Section 16.16 of Ratified Senate Bill 1366, 1997 Session, reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	4	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	3	Martin Beaufort Tyrrell Hyde Washington
3A	5	Pitt
3B	5	Craven Pamlico Carteret
4	7	Sampson Duplin Jones Onslow
5	6	New Hanover Pender
6A	2	Halifax
6B	3	Northampton Bertie Hertford
7	7	Nash Edgecombe Wilson
8	6	Wayne Greene Lenoir
9	4	Granville (part of Vance see subsection (b))
9A	2	Franklin Person Caswell
9B	1	Warren (part of Vance)

		see subsection (b))
10	13	Wake
11	7	Harnett
		Johnston
		Lee
12	9	Cumberland
13	5	Bladen
		Brunswick
		Columbus
14	6	Durham
15A	3	Alamance
15B	4	Orange
		Chatham
16A	3	Scotland
		Hoke
16B	5	Robeson
17A	2	Rockingham
17B	3	Stokes
		Surry
18	11	Guilford
19A	3	Cabarrus
19B	6	Montgomery
		Moore
		Randolph
19C	4	Rowan
20	7	Stanly
		Union
		Anson
		Richmond
21	8	Forsyth
22	8	Alexander
		Davidson
		Davie
		Iredell
23	4	Alleghany
		Ashe
		Wilkes
		Yadkin
24	4	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	<u>78</u>	Burke

		Caldwell
		Catawba
26	15	Mecklenburg
27A	5	Gaston
27B	4	Cleveland
		Lincoln
28	5	Buncombe
29	6	Henderson
		McDowell
		Polk
		Rutherford
		Transylvania
30	4	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

(b) The Governor shall appoint an additional district court judge for District Court District 25 as authorized by subsection (a) of this section no later than June 30, 1999. This judge's successors shall be elected in the 2002 election for four-year terms commencing on the first Monday in December 2002.

(c) Section 16.16A of Ratified Senate Bill 1366, 1997 Session is repealed.

Section 68. Except as otherwise provided herein, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of October, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 1:55 p.m. this 31st day of October, 1998