

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-570
SENATE BILL 220**

AN ACT TO MAKE TECHNICAL CORRECTIONS IN THE GENERAL STATUTES AS REQUESTED BY THE GENERAL STATUTES COMMISSION AND TO MAKE VARIOUS OTHER TECHNICAL CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CHANGES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION

SECTION 1. G.S. 7A-39.14(e) reads as rewritten:

"(e) A retired or emergency justice or judge may serve on the Supreme Court or Court of Appeals pursuant to subdivision (a)(3) or (a)(4) only if he is recalled to serve temporarily in place of a sitting justice or judge who is not temporarily incapacitated under circumstances that would permit temporary service of the retired or emergency justice or judge pursuant to G.S. 7A-39.5 or G.S. 7A-39.13. This section does not authorize more than seven justices to serve on the Supreme Court at any given time, nor does it authorize more than ~~12~~15 justices and judges to serve on the Court of Appeals at any given time. In no case may more than one emergency justice or emergency judge serve on one panel of the Court of Appeals at any given time."

SECTION 2. G.S. 7A-343.2 reads as rewritten:

"§ 7A-343.2. Court Information Technology Fund.

(a) Fund. – The Court Information Technology Fund is established within the Judicial Department as a special revenue fund. Interest and other investment income earned by the Fund accrues to it. The ~~fund~~Fund consists of the following revenues:

- (1) All ~~moneys~~monies collected by the Director pursuant to G.S. 7A-109(d) and G.S. 7A-49.5.
- (2) State judicial facilities fees credited to the Fund under G.S. 7A-304 through G.S. 7A-307.

(b) Use. – Money in the ~~fund~~Fund derived from State judicial facilities fees must be used to upgrade, maintain, and operate the judicial and county courthouse phone systems. All other monies in the ~~fund~~Fund must be used to supplement funds otherwise available to the Judicial Department for court information technology and office automation needs.

(c) Report. – The Director must report by August 1 and February 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety. The report must include the following:

- (1) Amounts credited in the preceding six months to the Fund.
- (2) Amounts expended in the preceding six months from the Fund and the purposes of the expenditures.
- (3) Proposed expenditures of the ~~funds~~funds.~~monies~~ in the Fund."

SECTION 3. G.S. 14-144 reads as rewritten:

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



If any person shall, by any other means than burning or attempting to burn, unlawfully and willfully demolish, destroy, deface, injure or damage any of the houses or other buildings mentioned in ~~this Chapter in the Article entitled Arson and Other Burnings;~~ Article 15 (Arson and Other Burnings) of this Chapter; or shall by any other means than burning or attempting to burn unlawfully and willfully demolish, pull down, destroy, deface, damage or injure any church, ~~uninhabited~~ uninhabited house, outhouse or other house or building not mentioned in such article; or shall unlawfully and willfully burn, destroy, pull down, injure or remove any fence, wall or other ~~inclosure, enclosure,~~ or any part thereof, surrounding or about any yard, garden, cultivated field or pasture, or about any church or graveyard, or about any factory or other house in which machinery is used, every person so offending shall be punished as follows:

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

SECTION 4. G.S. 14-202.5(b)(1) reads as rewritten:

"(1) Is operated by a person who derives revenue from membership fees, advertising, or other sources related to the operation of the Web site."

SECTION 5. G.S. 14-208.18(a) reads as rewritten:

"(a) It shall be unlawful for any person required to register under this Article, if the offense requiring registration is described in ~~subsection (b)~~ subsection (c) of this section, to knowingly be at any of the following locations:

- (1) On the premises of any place intended primarily for the use, care, or supervision of minors, including, but not limited to, schools, children's museums, child care centers, nurseries, and playgrounds.
- (2) Within 300 feet of any location intended primarily for the use, care, or supervision of minors when the place is located on premises that are not intended primarily for the use, care, or supervision of minors, including, but not limited to, places described in subdivision (1) of this subsection that are located in malls, shopping centers, or other property open to the general public.
- (3) At any place where minors gather for regularly scheduled educational, recreational, or social programs."

SECTION 6. The catch line for G.S. 14-318.2 reads as rewritten:

"§ 14-318.2. Child abuse a ~~Class 1~~ misdemeanor."

SECTION 7. G.S. 14-404(g) reads as rewritten:

"(g) An applicant shall not be ineligible to receive a permit under ~~subsection (4)~~ subsection (e) subdivision (c)(4) of this section because of involuntary commitment to mental health services if the individual's rights have been restored under G.S. 122C-54.1."

SECTION 8.(a) G.S. 58-50-180(b)(3)e. reads as rewritten:

"e. One who represents business, as recommended by the ~~North Carolina Citizens for Business and Industry;~~ North Carolina Chamber."

SECTION 8.(b) G.S. 58-65-133(d) 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,~~ the North Carolina Chamber, 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 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 8.(c) G.S. 115C-102.15(b)(9) reads as rewritten:

"(9) One representative of business and industry appointed by the State Board of Education after receiving recommendations from the ~~North Carolina Citizens for Business and Industry;~~North Carolina Chamber;"

SECTION 8.(d) G.S. 115C-102.15(b)(15) reads as rewritten:

"(15) Two representatives of technology businesses who have either successfully developed innovative technology programs for education or have partnered with a local education agency (LEA) to develop a technology-based education environment in that LEA, who are appointed by the State Board of Education, after receiving recommendations from North Carolina Electronics and Information Technologies Association and the ~~North Carolina Citizens for Business and Industry;~~North Carolina Chamber; and"

SECTION 8.(e) G.S. 143-548(a)(1) reads as rewritten:

"(1) The six members appointed by the President Pro Tempore of the Senate shall include one member recommended by the ~~North Carolina Citizens for Business and Industry;~~North Carolina Chamber, one other representing providers of community rehabilitation services, one other who is a vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who is not an employee of the Division, one other representing the Commission on Workforce Preparedness, and two others representing disability advocacy groups representing a cross-section of individuals with physical, cognitive, sensory, and mental disabilities. Of the six members appointed by the President Pro Tempore of the Senate, three shall be individuals with disabilities;"

SECTION 8.(f) G.S. 143B-434.1(c)(9) reads as rewritten:

"(9) The President of ~~North Carolina Citizens for Business and Industry;~~the North Carolina Chamber."

SECTION 8.(g) G.S. 143B-434.1(d) reads as rewritten:

"(d) The members of the Board shall serve the following terms: the Secretary of Commerce, the Director of the Division of Tourism, Film, and Sports Development, the Chairperson of the Travel and Tourism Coalition, the President of the North Carolina Travel Industry Association, and the President of ~~North Carolina Citizens for Business and Industry;~~the North Carolina Chamber shall serve on the Board while they hold their respective offices. Each member of the Board appointed by the Governor shall serve during his or her term of office. The members of the Board appointed by the General Assembly shall serve two-year terms beginning on January 1 of odd-numbered years and ending on December 31 of the following year. The first such term shall begin on January 1, 1991, or as soon thereafter as the member is appointed to the Board, and end on December 31, 1992. All other members of the Board shall serve a term which consists of the portion of calendar year 1991 that remains following their appointment or designation and, thereafter, two-year terms which shall begin on January 1 of an even-numbered year and end on December 31 of the following year. The first such two-year term shall begin on January 1, 1992, and end on December 31, 1994."

SECTION 9. The catch line of G.S. 58-89A-75 reads as rewritten:

"§ 58-89A-75. De minimis-minimis registration."

SECTION 10. G.S. 90-21.5(a) reads as rewritten:

"(a) Any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional disturbance. This section does not authorize the inducing of an abortion, performance of a sterilization operation, or admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in ~~G.S. 122C-222~~G.S. 122C-223. This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by ~~G.S. 122C-222~~G.S. 122C-223."

SECTION 11. G.S. 90-270.78(a)(3) reads as rewritten:

"(3) Use in connection with his or her name or place of business the words "~~occupational therapist~~," occupational therapist" or "occupational therapy assistant", "~~occupational therapist~~ or the letters "O.T.", "O.T./L.", "O.T.A.", or "O.T.A./L.",¹ or any other words, letters, abbreviations or insignia indicating or implying that the person is an occupational therapist, or occupational therapy assistant."

SECTION 12. G.S. 90-634(b1) reads as rewritten:

"(b1) Unless exempt from the approval process, it is unlawful for an individual, association, partnership, corporation, or other entity to open, operate, or advertise a massage and bodywork therapy school without first having obtained the approval required by ~~G.S. 90-637.1~~G.S. 90-631.1."

SECTION 13. G.S. 115B-5A is recodified as G.S. 115B-5.1.

SECTION 14. G.S. 120C-102(d) reads as rewritten:

"(d) Except as provided under ~~subsections (e)~~subsections (c) and (d1) of this section, a request for advice, any advice provided by Commission staff, any formal advisory opinions, any supporting documents submitted or caused to be submitted to the Commission or Commission staff, and any documents prepared or collected by the Commission or the Commission staff in connection with a request for advice are confidential. The identity of the individual, State agency, or governmental unit making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual, State agency, or governmental unit who requests advice or receives advice, including a formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1."

SECTION 15. G.S. 122A-5(24) reads as rewritten:

"(24) To advise the Governor regarding the coordination of public and private low- and moderate-income housing programs; ~~and~~"

SECTION 16. G.S. 130A-295.02(j) reads as rewritten:

"(j) For purposes of this subsection, special purpose commercial hazardous waste facilities include: a facility that manages limited quantities of hazardous waste; a facility that limits its hazardous waste management activities to reclamation or recycling, including energy or materials recovery or a facility that stores hazardous waste primarily for use at such facilities; or a facility that is determined to be low risk under rules adopted by the Commission pursuant to this subsection. The Commission shall adopt rules to determine whether a commercial hazardous waste facility is a special purpose commercial hazardous waste facility and to establish classifications of special purpose commercial hazardous waste facilities. The

rules to determine whether a commercial hazardous waste facility is a special purpose commercial hazardous waste facility and to establish classifications of special purpose commercial hazardous waste facilities shall be based on factors including, but not limited to, the size of the facility, the type of treatment or storage being performed, the nature and volume of waste being treated or stored, the uniformity, similarity, or lack of diversity of the waste streams, the predictability of the nature of the waste streams and their treatability, whether the facility utilizes automated monitoring or safety devices that adequately perform functions that would otherwise be performed by a resident inspector, the fact that reclamation or recycling is being performed at the facility, and the compliance history of the facility and its operator. Based on the foregoing factors and any increase or decrease in the number of sensitive land uses over time or in estimated population density over time reported pursuant to G.S. 130A-295.01(f), rules adopted pursuant to this subsection shall establish times and frequencies for the presence of a resident inspector on less than a full-time basis at special purpose commercial hazardous waste facilities and specify a minimum number of additional inspections at special purpose hazardous waste facilities.

~~during such times as the facility is subject to inspection~~

Special purpose commercial hazardous waste facilities that utilize hazardous waste as a fuel source shall be inspected a minimum of 40 hours per week, unless compliance data for these facilities can be electronically monitored and recorded off-site by the Department. The Department, considering the benefits provided by electronic monitoring, shall determine the number of hours of on-site inspection required at these facilities. The Department shall maintain records of all inspections at special purpose commercial hazardous waste facilities. Such records shall contain sufficient detail and shall be arranged in a readily understandable format so as to facilitate determination at any time as to whether the special purpose commercial hazardous waste facility is in compliance with the requirements of this subsection and of rules adopted pursuant to this subsection. Notwithstanding any other provision of this section, special purpose commercial hazardous waste facilities shall be subject to inspection at all times during which the facility is in operation, undergoing any maintenance or repair, or undergoing any test or calibration."

SECTION 17. G.S. 138A-13(e) reads as rewritten:

"(e) Except as provided under subsections (b2), (d) and (e1) of this section, ~~for a request for advice, any advice provided by Commission staff, any formal or recommended formal advisory opinions, any supporting documents submitted or caused to be submitted to the Commission or Commission staff, and any documents prepared or collected by the Commission or Commission staff in connection with a request for advice and advisory opinions issued under~~ are confidential. The identity of the individual making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual who requests advice or receives advice, including a formal or recommended formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1."

SECTION 18. G.S. 143-138(b) is amended by deleting "For the information of users thereof, the Code shall include as appendices" and substituting "For the information of users thereof, the Code shall include as appendices the following:".

SECTION 19. G.S. 143-215.94H(a)(2) reads as rewritten:

"(2) The ~~the~~ amounts required to be paid for by the owner or operator pursuant to G.S. 143-215.94E(b) per occurrence for costs described in

G.S. 143-215.94B(b) and G.S. 143-215.94B(b1) if costs are eligible to be paid under those subsections."

SECTION 20. G.S. 143-215.94T(c) reads as rewritten:

"(c) Rules adopted pursuant to subdivision (13) of subsection (a) of this section shall require secondary containment for all components of underground storage tank systems, including, but not limited to, tanks, piping, fittings, pump heads, and dispensers. Secondary containment requirements shall include standards for double wall tanks, piping, and fittings and for sump containment for pump heads and dispensers. The rules shall provide for monitoring of double wall interstices and sump containments. The rules shall apply to any underground storage tank system that is installed on or after the date on which the rules become effective and to the replacement of any component of an underground storage tank system on or after that date."

SECTION 21. G.S. 143-299.1A(c) reads as rewritten:

"(c) ~~Nothing in this section shall limit the assertion of the public duty doctrine as a defense on the part of a unit of local government or its officers, employees, or agents.~~ This section does not apply to a unit of local government or its officers, employees, or agents."

SECTION 22.(a) G.S. 143B-437.63 reads as rewritten:

"§ 143B-437.63. JDIG Program cash flow requirements.

Notwithstanding any other provision of law, grants made through the Job Development Investment Grant Program, including amounts transferred pursuant to G.S. 143B-437.61, shall be budgeted and funded on a cash flow basis. The Office of State Budget and Management shall periodically transfer funds from the JDIG Reserve Fund established pursuant to ~~G.S. 143-15.3~~G.S. 143C-9-6 to the Department of Commerce in an amount sufficient to satisfy grant obligations and amounts to be transferred pursuant to G.S. 143B-437.61 to be paid during the fiscal year."

SECTION 22.(b) If Senate Bill 509, 2009 Regular Session, becomes law, this section is repealed.

SECTION 23. G.S. 144-3 reads as rewritten:

"§ 144-3. Flags to be displayed on public buildings and institutions.

The board of trustees or managers of the several State institutions and public buildings shall provide a North Carolina flag, of such dimensions and material as they may deem best, and the same shall be displayed from a staff upon the top of each and every such building, at all times except during inclement weather, and upon the death of any State officer or any prominent citizen the flag shall be put at ~~half-mast~~half-staff until the burial of such person has taken place."

SECTION 24. G.S. 148-84 reads as rewritten:

"§ 148-84. Evidence; action by Industrial Commission; payment and amount of compensation.

(a) At the hearing the claimant may introduce evidence in the form of affidavits or testimony to support the claim, and the Attorney General may introduce counter affidavits or testimony in refutation. If the Industrial Commission finds from the evidence that the claimant received a pardon of innocence for the reason that the crime was not committed at all, or was not committed by the claimant, and that the claimant was imprisoned and has been vindicated in connection with the alleged offense for which he or she was imprisoned, the Industrial Commission shall award to the claimant an amount equal to fifty thousand dollars (\$50,000) for each year or the pro rata amount for the portion of each year of the imprisonment actually served, including any time spent awaiting trial. However, (i) in no event shall the compensation, including the compensation provided in ~~subsections (b) and (c)~~subsection (c) of this section, exceed a total amount of seven hundred fifty thousand dollars (\$750,000), and (ii) a claimant is not entitled to compensation for any portion of a prison sentence during which the

claimant was also serving a concurrent sentence for conviction of a crime other than the one for which the pardon of innocence was granted.

The Director of the Budget shall pay the amount of the award to the claimant out of the Contingency and Emergency Fund, or out of any other available State funds. The Industrial Commission shall give written notice of its decision to all parties concerned. The determination of the Industrial Commission shall be subject to judicial review upon appeal of the claimant or the State according to the provisions and procedures set forth in Article 31 of Chapter 143 of the General Statutes.

(b) Reserved.

(c) In addition to the compensation provided under ~~subsections (a) and (b)~~ subsection (a) of this section, the Industrial Commission shall determine the extent to which incarceration has deprived a claimant of educational or training opportunities and, based upon those findings, may award the following compensation for loss of life opportunities:

- (1) Job skills training for at least one year through an appropriate State program; and
- (2) Expenses for tuition and fees at any public North Carolina community college or constituent institution of The University of North Carolina for any degree or program of the claimant's choice that is available from one or more of the applicable institutions. Claimants are also entitled to assistance in meeting any admission standards or criteria required at any of those institutions, including assistance in satisfying requirements for a certificate of equivalency of completion of secondary education. A claimant may apply for aid under this subdivision within 10 years of the claimant's release from incarceration, and aid shall continue for up to a total of five years when initiated within the 10-year period, provided the claimant makes satisfactory progress in the courses or degree program in which the claimant is enrolled."

SECTION 25. G.S. 163-278.66(a) reads as rewritten:

"(a) ~~Noncertified and Independent Expenditure Entities.~~ Reporting by Noncertified Candidates and Other Entities. – Any noncertified candidate with a certified opponent shall report total contributions received to the Board by facsimile machine or electronically within 24 hours after the total amount of contributions received exceeds eighty percent (80%) of the trigger for matching funds as defined in G.S. 163-278.62(18). Any entity making independent expenditures in support of or opposition to a certified candidate or in support of a candidate opposing a certified candidate, or paying for electioneering communications, referring to one of those candidates, shall report the total expenditures or payments made to the Board by facsimile machine or electronically within 24 hours after the total amount of expenditures or payments made for the purpose of making the independent expenditures or electioneering communications exceeds five thousand dollars (\$5,000). After the initial 24-hour filing, the noncertified candidate or other reporting entity shall comply with an expedited reporting schedule. The schedule and forms for reports required by this subsection shall be supplied by the Board."

SECTION 26. G.S. 163-278.99A(a) reads as rewritten:

"(a) Reporting by Noncertified Candidates and Other Entities. – Any nonparticipating candidate with a certified opponent shall report total contributions received to the Board by facsimile machine or electronically within 24 hours after the total amount of contributions received exceeds eighty percent (80%) of the trigger for matching funds as defined in G.S. 163-278.96(17). Any entity making independent expenditures in support of or in opposition to a certified candidate, or in support of a candidate opposing a certified candidate, or paying for electioneering communications referring to one of those candidates, shall report the total funds received, spent, or obligated for those expenditures or payments to the Board by facsimile machine or electronically within 24 hours after the total amount of expenditures or

obligations made, or funds raised or borrowed, for the purpose of making the independent expenditures or electioneering communications exceeds five thousand dollars (\$5,000). After the initial 24-hour filing, the nonparticipating candidate or other reporting entity shall comply with an expedited reporting schedule. The schedule and forms for reports required by this subsection shall be supplied by the Board."

SECTION 27. The Revisor of Statutes shall change the word "judgement" to the word "judgment" wherever that word appears in the General Statutes, including in the following statutes: G.S. 24-11, 58-30-130, 115C-72, 122C-272, 130A-303, 160A-38, and 160A-50.

PART II. OTHER CHANGES

SECTION 28. G.S. 7A-38.6(a) reads as rewritten:

"(a) All community mediation centers currently receiving State funds shall report annually to the Mediation Network of North Carolina on the program's funding and activities, including:

- (1) Types of dispute settlement services provided;
- (2) Clients receiving each type of dispute settlement service;
- (3) Number and type of referrals received, cases actually mediated (identified by docket number), cases resolved in mediation, and total clients served in the cases mediated;
- (4) Total program funding and funding sources;
- (5) Itemization of the use of funds, including operating expenses and personnel;
- (6) Itemization of the use of State funds appropriated to the center;
- (7) Level of volunteer activity; and
- (8) Identification of future service demands and budget requirements.

The Mediation Network of North Carolina shall compile and summarize the information provided pursuant to this subsection and shall provide the information to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year.

The Mediation Network of North Carolina shall also submit a copy of its report to the Administrative Office of the Courts. The receipt and review of this report by the Administrative Office of the Courts shall satisfy any program monitoring, evaluation, and contracting requirements imposed on the Administrative Office of the Courts by ~~G.S. 143-6.2~~ Part 3 of Article 6 of Chapter 143C of the General Statutes and any rules adopted under that ~~section.~~ Part."

SECTION 29. G.S. 7A-307(a) reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under ~~G.S. 36A-23.1,~~ G.S. 36C-2-203, and in collections of personal property by affidavit, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of ten dollars (\$10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (1a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of one dollar (\$1.00), to be credited to the Court Information Technology Fund.
- (2) For support of the General Court of Justice, the sum of fifty dollars (\$50.00), plus an additional forty cents (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed six thousand dollars (\$6,000). Gross estate shall include the fair market value of all personalty

when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars (\$15.00). Sums collected under this subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of two dollars and five cents (\$2.05) of each fifty-dollar (\$50.00) General Court of Justice fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4.

- (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate, not to exceed six thousand dollars (\$6,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of twenty dollars (\$20.00) shall be assessed on the filing of each annual and final account. However, the fee shall be assessed only on newly contributed or acquired assets, all interest or other income that accrues or is earned on or with respect to any existing or newly contributed or acquired assets, and realized gains on the sale of any and all trust assets. Newly contributed or acquired assets do not include assets acquired by the sale, transfer, exchange, or otherwise of the amount of trust property on which fees were previously assessed.
- (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.
- (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate shall not be assessed on the gross estate of a trust that is the subject of a proceeding under ~~G.S. 36A-23-1~~ G.S. 36C-2-203 if there is no requirement in the trust that accountings be filed with the clerk.
- (3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of twenty dollars (\$20.00).

SECTION 30.(a) G.S 15A-268(b)(3)d.3., as amended by S.L. 2009-203, reads as rewritten:

"3. The defendant will file a motion for DNA testing pursuant to G.S. 15A-269 within 180 days of the postmark of the defendant's response to the district attorney's written notification of the ~~governmental entity's~~ custodial agency's intent to dispose of the evidence, unless a request for extension is requested by the defendant and agreed to by the custodial agency."

SECTION 30.(b) G.S 15A-268(f) reads as rewritten:

"(f) An order regarding the disposition of evidence pursuant to this section shall be a final and appealable order. The defendant shall have 30 days from the entry of the order to file notice of appeal. The ~~governmental entity~~custodial agency shall not dispose of the evidence while the appeal is pending."

SECTION 30.(c) Section 7(a) of S.L. 2009-203 reads as rewritten:

"SECTION 7.(a) The Joint Select Study Committee on the Preservation of Biological Evidence is established. The membership shall be as follows:

- (1) Three members of the Senate appointed by the President Pro Tempore of the Senate.
- (2) Three members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (3) The Attorney General or the Attorney General's designee.
- (4) The Director of the SBI or the Director's designee.
- (5) The Director of the Administrative Office of the Courts or the Director's designee.
- (6) The President of the ~~North Carolina Association of~~Conference of Clerks of Superior Court or the President's designee.
- (7) The President of the North Carolina Association of Chiefs of Police or the President's designee.
- (8) The President of the North Carolina Sheriffs' Association or the President's designee.
- (9) The President of North Carolina Advocates for Justice or the President's designee.
- (10) One North Carolina district attorney appointed by the Speaker of the House of Representatives.
- (11) One North Carolina district attorney appointed by the President Pro Tempore of the Senate.
- (12) One public member appointed by the Speaker of the House of Representatives.
- (13) One public member appointed by the President Pro Tempore of the Senate.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one legislative member of the Committee to serve as cochair. The Committee shall meet upon the call of the cochairs. A quorum of the Committee shall be a majority of its members."

SECTION 31. G.S. 14-90(a)(3), as amended by S.L. 2009-348, reads as rewritten:

"(3) Who is a guardian, administrator, executor, trustee, or any receiver, or any other fiduciary, including, but not limited to, a settlement agent, as defined in ~~G.S. 45-3~~G.S. 45A-3."

SECTION 32.(a) G.S. 18C-103(7a), as enacted by S.L. 2009-357, reads as rewritten:

"(7a) "Potential contractor" or "lottery potential contractor" means any person other than a lottery retailer who submits a bid, proposal, or offer to procure a contract for goods or services for the Commission on an ongoing basis."

SECTION 32.(b) G.S. 18C-114(a)(8), as enacted by S.L. 2009-357, reads as rewritten:

"(8) To charge a fee of ~~lottery~~-potential contractors and lottery contractors to not exceed the cost of the criminal record check of the ~~lottery~~-potential contractors and lottery contractors."

SECTION 32.(c) G.S. 18C-114(a)(11)c., as enacted by S.L. 2009-357, reads as rewritten:

"c. No employee of the Commission who leaves the employment of the Commission may represent any lottery contractor, potential contractor, or retailer before the Commission for a period of one year following termination of employment with the Commission."

SECTION 32.(d) G.S. 18C-151(f), as enacted by S.L. 2009-357, reads as rewritten:

"(f) No lottery ~~system~~ contractor, potential contractor, or lottery supplier may pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food and beverages having an aggregate value not exceeding one hundred dollars (\$100.00) in any calendar year, to the Director, any member or employee of the corporation, or a member of the immediate family residing in the same household as any of these individuals."

SECTION 32.(e) G.S. 114-19.16 reads as rewritten:

"§ 114-19.16. Criminal record checks for the North Carolina State Lottery Commission and its Director.

The Department of Justice may provide to the North Carolina State Lottery Commission and to its Director from the State and National Repositories of Criminal Histories the criminal history of any prospective employee of the Commission and any ~~prospective lottery vendor~~ prospective lottery vendor, potential contractor. The North Carolina State Lottery Commission or its Director shall provide to the Department of Justice, along with the request, the fingerprints of the prospective employee of the Commission, or of the ~~prospective lottery vendor~~ prospective lottery vendor, potential contractor, a form signed by the prospective employee of the Commission, or of the ~~prospective vendor~~ prospective vendor, potential contractor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The fingerprints of the prospective employee of the Commission, or ~~prospective lottery vendor~~ prospective lottery vendor, potential contractor, shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The North Carolina State Lottery Commission and its Director shall remit any fingerprint information retained by the Commission to alcohol law enforcement agents appointed under Article 5 of Chapter 18B of the General Statutes and shall keep all information obtained pursuant to this section confidential. The Department of Justice shall charge a reasonable fee only for conducting the checks of the criminal history records authorized by this section."

SECTION 33. G.S. 20-183.2(a1) reads as rewritten:

"(a1) Safety Inspection Exceptions. – The following vehicles shall not be subject to a safety inspection pursuant to this Article:

- (1) Historic vehicles, as defined in G.S. 20-79.4(b)(55).
- (2) Buses titled to a local board of education and subject to the school bus inspection requirements specified by the State Board of Education and ~~G.S. 115C-248(a)~~ G.S. 115C-248."

SECTION 34. G.S. 22A-1 reads as rewritten:

"§ 22A-1. Use of a signature facsimile by a ~~handicapped person~~ person with a disability.

A ~~handicapped person~~ person with a disability, as defined in ~~G.S. 168A-3(4)~~ G.S. 168A-3(7a), may use a registered signature facsimile as a proper mark of the person's legal signature. An example of the signature facsimile shall be registered by the ~~handicapped person~~ person with a disability with the clerk of the superior court in the county where the person lives. The registered signature facsimile may be revoked at any time in writing by the ~~handicapped person~~ person with a disability."

SECTION 34.1. G.S. 53-244.030(20), as enacted by S.L. 2009-374, reads as rewritten:

"(20) "Mortgage lender" means a person engaged in the mortgage business as defined in ~~sub-subdivision a.~~ sub-subdivision b. of subdivision (10) of this section. However, the definition does not include a person who acts as a mortgage lender only in a tablefunding transaction."

SECTION 35. G.S. 58-72-50 reads as rewritten:

"§ 58-72-50. Approval, acknowledgment and custody of bonds.

The approval of all official bonds taken or renewed by the board of commissioners shall be recorded by ~~their clerk.~~ the clerk to the board. Every such bond shall be acknowledged by the parties thereto or proved by a subscribing witness, before the chairman of the board of commissioners, or before the clerk of the superior court, registered in the register's office in a separate book to be kept for the registration of official bonds, and the original bond, with the approval of the commissioners endorsed thereon and certified by their chairman, shall be deposited with the clerk of the superior court, ~~except the bond of said clerk, which shall be deposited with the register of deeds,~~ court for safekeeping. Provided that an official bond executed as surety by a surety company authorized to do business in this State need not be acknowledged upon behalf of the surety when such bond is executed under seal in the name of the surety by an agent or attorney-in-fact by authority of a power of attorney duly recorded in the office of the register of deeds of such county and such bond may be recorded by the register of deeds without an order of probate entered by the clerk of the superior court."

SECTION 36. G.S. 62-133.5(h)(2) as enacted by S.L. 2009-238, reads as rewritten:

- "(2) Beginning on the date that the local exchange company's election under this subsection becomes effective, the local exchange company shall continue to offer stand-alone basic residential lines to all customers who choose to subscribe to that service, and the local exchange company may increase rates for those lines annually by a percentage that does not exceed the percentage increase over the prior year in the Gross Domestic Product Price Index as reported by the United States ~~Department of Labor, Bureau of Labor Statistics,~~ Department of Commerce, Bureau of Economic Analysis, unless otherwise authorized by the Commission. With the sole exception of ensuring the local exchange company's compliance with the preceding sentence, the Commission shall not:
- a. Impose any requirements related to the terms, conditions, rates, or availability of any of the local exchange company's stand-alone basic residential lines.
 - b. Otherwise regulate any of the local exchange company's stand-alone basic residential lines."

SECTION 37. G.S. 115C-102.6B(b) reads as rewritten:

"(b) After presenting the plan or any proposed modifications to the plan to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Education Oversight Committee, the Commission shall submit the plan or any proposed modifications to (i) the State Chief Information Officer for approval of the technical components of the plan set out in G.S. 115C-102.6A(1) through (4), and (ii) the State Board of Education for information purposes only. The State Board shall adopt a plan that includes the components of a plan set out in ~~G.S. 115C-103.6A(1) through (16).~~ G.S. 115C-102.6A(c)(1) through (17).

At least one-fourth of the members of any technical committee that reviews the plan for the State Chief Information Officer shall be people actively involved in primary or secondary education."

SECTION 38. G.S. 115C-324 reads as rewritten:

"§ 115C-324. Disposition of payment due employees at time of death.

In the event of the death of any superintendent, teacher, principal, or other school employee to whom payment is due for or in connection with services rendered by such person or to whom has been issued any uncashed voucher for or in connection with services rendered, when there is no administration upon the estate of such person, such voucher may be cashed by the clerk of the superior court of the county in which such deceased person resided, or a voucher due for such services may be made payable to such clerk, who will treat such sums as a debt owed to the intestate under the provisions of ~~G.S. 28-68~~G.S. 28A-25-6."

SECTION 39.(a) Article 29B of Chapter 115C of the General Statutes, as enacted by S.L. 2009-212, is recodified as Article 29C of Chapter 115C of the General Statutes.

SECTION 39.(b) G.S. 115C-407.5 through G.S. 115C-407.8, as enacted by S.L. 2009-212, are recodified as G.S. 115C-407.9 through G.S. 115C-407.12.

SECTION 40. G.S. 115C-525(c) reads as rewritten:

"(c) Liability for Failure to Perform Duties Imposed by ~~G.S. 115C-288~~G.S. 115C-288(d) and 115C-525(a) or 115C-525(b). – Any person willfully failing to perform any of the duties imposed by ~~G.S. 115C-288~~G.S. 115C-288(d), 115C-525(a) or 115C-525(b) shall be guilty of a Class 3 misdemeanor and shall only be fined not more than five hundred dollars (\$500.00) in the discretion of the court."

SECTION 41. G.S. 115D-5.1 reads as rewritten:

"§ 115D-5.1. Workforce Development Programs.

(a) Community colleges shall assist in the preemployment and in-service training of employees in industry, business, agriculture, health occupation and governmental agencies. Such training shall include instruction on worker safety and health standards and practices applicable to the field of employment. The State Board of Community Colleges shall make appropriate regulations including the establishment of maximum hours of instruction which may be offered at State expense in each in-plant training program. No instructor or other employee of a community college shall engage in the normal management, supervisory and operational functions of the establishment in which the instruction is offered during the hours in which the instructor or other employee is employed for instructional or educational purposes.

(b) through (d) Repealed by Session Laws 2008-107, s. 8.7(a), effective July 1, 2008.

(e) There is created within the North Carolina Community College System the Customized Training Program. The Customized Training Program shall offer programs and training services to assist new and existing business and industry to remain productive, profitable, and within the State. Before a business or industry qualifies to receive assistance under the Customized Training Program, the President of the North Carolina Community College System shall determine that:

- (1) The business is making an appreciable capital investment;
- (2) The business is deploying new technology;
- (2a) The business or individual is creating jobs, expanding an existing workforce, or enhancing the productivity and profitability of the operations within the State; and
- (3) The skills of the workers will be enhanced by the assistance.

(f) The State Board shall report on an annual basis to the Joint Legislative Education Oversight Committee on:

- (1) The total amount of funds received by a company under the ~~CIT~~Customized Training Program;
- (2) The amount of funds per trainee received by that company;
- (3) The amount of funds received per trainee by the community college delivering the training;
- (4) The number of trainees trained by the company and community college; and
- (5) The number of years that company has been funded.

(f1) Notwithstanding any other provision of law, the State Board of Community Colleges may adopt rules and guidelines that allow the Customized Training Program ~~and the Focused Industrial Training Program~~ to use funds appropriated for those programs to support training projects for the various branches of the United States Armed Forces.

(f2) Funds available to the Customized Training Program shall not revert at the end of a fiscal year but shall remain available until expended. Up to ten percent (10%) of the college-delivered training expenditures and up to five percent (5%) of the contractor-delivered training expenditures for the prior fiscal year for Customized Training may be allotted to each college for capacity building at that college.

(f3) Of the funds appropriated in a fiscal year for the Customized Training Programs, the State Board of Community Colleges may approve the use of up to eight percent (8%) for the training and support of regional community college personnel to deliver Customized ~~Industry~~ Training Program services to business and industry.

(g) The State Board shall adopt rules and policies to implement this section."

SECTION 42. G.S. 115D-5(s) reads as rewritten:

"(s) The State Board of Community Colleges may retain and budget fees charged to students taking the General Education Development (GED) test. Fees collected for this purpose shall be used only to (i) offset the costs of the GED test, including the cost of scoring the test, (ii) offset the ~~course~~ costs of printing GED certificates, and (iii) meet federal and State reporting requirements related to the test."

SECTION 43. G.S. 122C-55(a6), as enacted by S.L. 2009-65, reads as rewritten:

"(a6) When necessary to conduct quality assessment and improvement activities or to coordinate appropriate and effective care, treatment, or habilitation of the client, a DHHS primary care case manager may disclose confidential information acquired pursuant to subsection (a1) of this section to a health care provider or other entity that has entered into a written agreement with the Department's Community Care of North Carolina Program, or other primary care case management program, to participate in the care management support network and systems developed and maintained by the primary care case manager for the purpose of coordinating and improving the quality of care for recipients of publicly funded health and related services. Health care providers and other entities receiving confidential information from ~~a the~~ Department's Community Care of North Carolina Program or other primary care case management program pursuant to this subsection may use and disclose the information as authorized by G.S. 122C-53 through G.S. 122C-56 or as permitted or required by other applicable State or federal law."

SECTION 43.1. G.S. 130A-128A as enacted by S.L. 2009-67 is recodified as G.S. 130A-128.1.

SECTION 43.2. G.S. 135-45.2(c)(12) reads as rewritten:

"(12) Notwithstanding the provisions of ~~G.S. 135-45.11~~ G.S. 135-45.12 former employees covered by the provisions of G.S. 135-45.2 and their spouses and eligible dependent children who were covered by the Plan at the time of the former employees' separation from service pursuant to G.S. 135-45.2, following expiration of the former employees' coverage provided by G.S. 135-45.2. Election of coverage under this subdivision shall be made within 90 days after the termination of coverage provided under G.S. 135-45.2."

SECTION 44. G.S. 136-44.50(b)(4) reads as rewritten:

"(4) The names submitted as required under ~~subdivision (a)(3)~~ subdivision (a1)(3) of this section shall be indexed in the "grantor" index by the Register of Deeds."

SECTION 45. G.S. 138A-24(f) reads as rewritten:

"(f) The Commission shall prepare a written evaluation of each statement of economic interest for nominees of the Board of Governors of The University of North Carolina elected

pursuant to G.S. 116-6, and nominees of the State Board of Community Colleges elected pursuant to ~~G.S. 115D-2~~ G.S. 115D-2.1 within seven days of the submission of the completed statement of economic interest to the Commission."

SECTION 46. Section 2 of S.L. 2009-19 reads as rewritten:

"**SECTION 2.** This act is effective when it becomes law. G.S. 160A-200(b) is repealed. A municipality newly covered by G.S. 160A-200 on account of this act may adopt an ordinance under G.S. 160A-200 when this act becomes law, but the ordinances may not become effective prior to October 1, 2009. ~~The repeal herein of any local act does not affect the rights or liabilities of a municipality that arose during the time the act was in effect, or under an ordinance adopted under such an act. If any municipality adopted an ordinance under any act repealed by this act, and the ordinance would be permitted under G.S. 160A-200, as enacted by this act, that ordinance shall remain in effect until amended or repealed by that municipality."~~

SECTION 47. The title of S.L. 2009-307 is amended by deleting "FIFTEEN" and substituting "TWENTY".

SECTION 48. G.S. 53-244.040(d), as enacted by S.L. 2009-374, reads as rewritten:

"(d) The following are exempt from all provisions of this Article except the provisions of G.S. 53-244.111:

- (1) Registered mortgage loan originators as defined in G.S. 53-244.030(29);
- (2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual when making the family member a residential mortgage loan;
- (3) Any individual seller who offers or negotiates terms and makes a residential mortgage loan secured by the dwelling that served as the selling individual's residence;
- (4) An attorney licensed pursuant to Chapter 84 of the General Statutes who negotiates the terms of a residential mortgage loan on behalf of a client in the course of and incident to the attorney's representation of the client, so long as the attorney does not hold himself out as engaged in the mortgage business and is not compensated by a mortgage lender, a mortgage broker, or other mortgage loan originator when negotiating the terms of a residential mortgage loan;
- (5) Any entity described in G.S. 53-244.030(29)a., b., or c., upon acceptance of the notice of exemption filed with the Commissioner as specified in G.S. 53-244.050(g);
- (6) Any officer or employee of an entity described in subdivision (5) of this subsection when acting within the scope of his or her employment; ~~or~~
- (7) A State or federally chartered credit union, upon filing of a notice of exemption with the Administrator of the Credit Union Division of the Department of Commerce as specified in ~~G.S. 53-244.050(g).~~ G.S. 53-244.050(g); or
- (8) Any person who, as seller, receives in one calendar year no more than five residential mortgage loans as security for purchase money obligations, unless the United States Department of Housing and Urban Development has expressly and definitively determined that such persons are loan originators as the term is defined by §1503 of Title V of the Housing and Economic Recovery Act of 2008, Public Law 110-289, and such determination is in effect on July 31, 2010."

SECTION 48.1. If Senate Bill 40, 2009 Regular Session, becomes law, the lead-in language for Section 3.1 of that bill is amended by adding the words 'Section 1 of' before the words 'Chapter 322'.

SECTION 48.2. If Senate Bill 660, 2009 Regular Session, and Senate Bill 514, 2009 Regular Session, both become law, then G.S. 7A-292(15) as enacted by Section 2 of Senate Bill 660 is recodified as G.S. 7A-292(16).

SECTION 49. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of August, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 2:50 p.m. this 28th day of August, 2009